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ABSTRACT

The 2002 reauthorization of the Elementary and Secondary Education Act, known as No Child Left Behind, significantly expands the role of the federal government in elementary and secondary education and has important implications for rural and small schools. This guide examines 15 areas of the legislation that will have the greatest impact on rural and small schools. A section on each area contains the language of the legislation, information on policy implications for states and districts, and descriptions of specific practices and concerns related to implementation in rural districts. Sections cover requirements for annual assessment, testing of limited-English-proficient students, adequate yearly progress, school choice provisions, supplemental services, qualifications of paraprofessionals, parental notification and involvement, fully qualified teachers, school and district report cards, private school provisions, professional development, the Rural Education Achievement Program, options under preparing/training teachers, enhancing education through the Technology Act of 2001, and transferability of federal funds between programs. A final section lists nine related resources. (SV)

No Child Left Behind:



A Guide for Small and Rural Districts

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No Child Left Behind:

A Guide for Small and Rural Districts



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**No Child Left Behind
And
Rural Education
Implications for Policy and Practice**

The National Association of State Boards of Education and the **American Association of School Administrators** are pleased to provide information on the 2002 enactment of the Elementary and Secondary Education Act, known as No Child Left Behind. This landmark legislation significantly expands the role of the federal government in primary and secondary education, and has important implications for rural and small schools, comprising approximately 4,700 school districts across the country.

The authors have identified 15 areas that, we feel, will have the greatest impact on rural and small schools. This user's guide divides each of these areas into three sections:

Section One contains the language of the federal legislation, providing context for the discussion that follows.

Section Two contains information relative to policy implications.

Section Three is specifically concerned with the implementation of the legislation in rural and small schools; providing information on best practices, as well as issue-oriented concerns in implementation.

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I. Assessment

Title I Section 1111(b)(2)

(A) IN GENERAL- Each State plan shall demonstrate that the State educational agency, in consultation with local educational agencies, has implemented a set of high-quality, yearly student academic assessments that include, at a minimum, academic assessments in mathematics, reading or language arts, and science that will be used as the primary means of determining the yearly performance of the State and of each local educational agency and school in the State in enabling all children to meet the State's challenging student academic achievement standards, except that no State shall be required to meet the requirements of this part relating to science assessments until the beginning of the 2007-2008 school year.

(B) USE OF ASSESSMENTS- Each State educational agency may incorporate the data from the assessments under this paragraph into a State-developed longitudinal data system that links student test scores, length of enrollment, and graduation records over time.

(C) REQUIREMENTS- Such assessments shall--

(i) be the same academic assessments used to measure the achievement of all children;

(ii) be aligned with the State's challenging academic content and student academic achievement standards, and provide coherent information about student attainment of such standards;

(iii) be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards;

(iv) be used only if the State educational agency provides to the Secretary evidence from the test publisher or other relevant sources that the assessments used are of adequate technical quality for each purpose required under this Act and are consistent with the requirements of this section, and such evidence is made public by the Secretary upon request;

(v)(I) except as otherwise provided for grades 3 through 8 under clause vii, measure the proficiency of students in, at a minimum, mathematics and reading or language arts, and be administered not less than once during--

(aa) grades 3 through 5;

(bb) grades 6 through 9; and

(cc) grades 10 through 12;

(II) beginning not later than school year 2007-2008, measure the proficiency of all students in science and be administered not less than one time during--

(aa) grades 3 through 5;

(bb) grades 6 through 9; and

(cc) grades 10 through 12;

(vi) involve multiple up-to-date measures of student academic achievement, including measures that assess higher-order thinking skills and understanding;

(vii) beginning not later than school year 2005-2006, measure the achievement of students against the challenging State academic content and student academic achievement standards in each of grades 3 through 8 in, at a minimum, mathematics, and reading or language arts, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of the academic assessments by that deadline and that the State will complete implementation within the additional 1-year period;

(viii) at the discretion of the State, measure the proficiency of students in academic subjects not described in clauses (v), (vi), (vii) in which the State has adopted challenging academic content and academic achievement standards;

(ix) provide for--

(I) the participation in such assessments of all students;

(II) the reasonable adaptations and accommodations for students with disabilities (as defined under section 602(3) of the Individuals with Disabilities Education Act) necessary to measure the academic achievement of such students relative to State academic content and State student academic achievement standards; and

- (xi) include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, except that the performance of students who have attended more than 1 school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;
- (xii) produce individual student interpretive, descriptive, and diagnostic reports, consistent with clause (iii) that allow parents, teachers, and principals to understand and address the specific academic needs of students, and include information regarding achievement on academic assessments aligned with State academic achievement standards, and that are provided to parents, teachers, and principals, as soon as is practicably possible after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand;
- (xiii) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to non-disabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged, except that, in the case of a local educational agency or a school, such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student;
- (xiv) be consistent with widely accepted professional testing standards, objectively measure academic achievement, knowledge, and skills, and be tests that do not evaluate or assess personal or family beliefs and attitudes, or publicly disclose personally identifiable information; and
- (xv) enable itemized score analyses to be produced and reported, consistent with clause (iii), to local educational agencies and schools, so that parents, teachers, principals, and administrators can interpret and address the specific academic needs of students as indicated by the students' achievement on assessment items

Title VI, Section 6111. GRANTS FOR STATE ASSESSMENTS AND RELATED ACTIVITIES.

The Secretary shall make grants to States to enable the States —

- (1) to pay the costs of the development of the additional State assessments and standards required by section 1111(b), which may include the costs of working in voluntary partnerships with other States, at the sole discretion of each such State; and
- (2) if a State has developed the assessments and standards required by section 1111(b), to administer those assessments or to carry out other activities described in this subpart and other activities related to ensuring that the State's schools and local educational agencies are held accountable for results, such as the following:
 - (A) Developing challenging State academic content and student academic achievement standards and aligned assessments in academic subjects for which standards and assessments are not required by section 1111(b).
 - (B) Developing or improving assessments of English language proficiency necessary to comply with section 1111(b)(7).
 - (C) Ensuring the continued validity and reliability of State assessments.
 - (D) Refining State assessments to ensure their continued alignment with the State's academic content standards and to improve the alignment of curricula and instructional materials.
 - (E) Developing multiple measures to increase the reliability and validity of State assessment systems.
 - (F) Strengthening the capacity of local educational agencies and schools to provide all students the opportunity to increase educational achievement, including carrying out professional development activities aligned with State student academic achievement standards and assessments.
 - (G) Expanding the range of accommodations available to students with limited English proficiency and students with disabilities to improve the rates of inclusion of such students, including professional development activities aligned with State academic achievement standards and assessments.
 - (H) Improving the dissemination of information on student achievement and school performance to parents and the community, including the development of information and reporting systems designed to identify best educational practices based on scientifically based research or to assist in linking records of student achievement, length of enrollment, and graduation over time.

Title I, Section 1111 (c) (2)

(c) OTHER PROVISIONS TO SUPPORT TEACHING AND LEARNING- Each State plan shall contain assurances that—

(1) the State educational agency will meet the requirements of subsection (h)(1) and, beginning with the 2002-2003 school year, will produce the annual State report cards described in such subsection, except that the Secretary may provide the State educational agency 1 additional year if the State educational agency demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of this paragraph by that deadline and that the State will complete implementation within the additional 1-year period;

(2) the State will, beginning in school year 2002-2003, participate in biennial State academic assessments of 4th and 8th grade reading and mathematics under the National Assessment of Educational Progress carried out under section 411(b)(2) of the National Education Statistics Act of 1994 if the Secretary pays the costs of administering such assessments.

Policy Implications:

Annual Assessments.

By the 2005-2006 school year, each state must have in place a set of high-quality, yearly academic assessments for reading and mathematics in grades 3 through 8. By the 2007-2008 school year, each state must have an equivalent science assessment administered at least once during grades 3-5, 6-9, and 10-12.

This requires each State to enact legislation designed to fulfill both the standard of annual testing and the establishment of levels of proficiency (basic, proficient, advanced) along with annual objectives toward 100% proficiency by the 2014 school year. The provision of reasonable accommodations for students included under the Individuals with Disabilities Education Act must also be assured.

Policy concerns for rural and small schools are found under Title I, Section 1111 (b)(2)(A)(xiii) in the discussion of disaggregation. Disaggregation that would fail to yield statistically reliable information, or would yield personally identifiable information is not required. States must work with affected local districts to develop alternative plans. Setting the limits of cells found in disaggregation is a State function and it maintains responsibility for *a priori* setting of these limits as a function of State policy.

Requirements for Assessments

From a State policy viewpoint, it is apparent that State Boards will be required to formally assert the following in regard to statewide assessments:

- Be the same academic assessments used to measure the achievement of all children;
- Be aligned with the state's academic standards and provide coherent information about student achievement of the standards;
- Meet nationally recognized professional and technical standards;
- Involve up-to-date measures of student achievement that assess higher-order thinking skills and understanding;

- Be used only for the purposes for which they are designed;
- Be used only if evidence is provided, by the test publisher or other sources, that the tests are of adequate technical quality to meet the purposes of the Act.

While no formal assertion appears necessary, State guidelines should address the following:

- Include students who have attended schools in a local educational agency for a full academic year; if a student attends more than one school within an LEA, then that student's scores shall be used to determine the progress of the LEA, not an individual school. Said students shall take the statewide exam, but shall not be counted in AYP until they have been in the school for a full academic year.
- Produce individual student interpretive, descriptive, and diagnostic reports in uniform formats that allow parents, teachers, and principals to understand and address specific student needs;
- Enable results to be disaggregated within each state, local agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities, and by economically disadvantaged students. Disaggregation by gender and migrant status shall not be used in Adequate Yearly Progress determinations
- Ensure the participation of all students in the assessments;
- Accommodation for students with disabilities;
- Ensure the inclusion of limited English proficient students in the language and form most likely to yield accurate data. See Section II.

Deferral of Assessment Requirements. A state may defer the administration (but not development) of assessments for a year if the amount appropriated by Congress for the state costs of assessments is less than:

\$370 million for FY 2002; [Congress appropriated \$387 million for FY 2002]

\$380 million for FY 2003

\$390 million for FY 2004; and

\$400 million for fiscal years 2005-2007.

This information is included to give State Board's the opportunity to monitor federal participation in the cost of state assessment programs. As indicated, a State may defer the administration of assessment under certain conditions, including natural disasters. Please note, however, that the State may not defer development of a state assessment system.

National Assessment of Educational Progress (NAEP)

State Boards must ensure that schools within their jurisdiction will participate in the NAEP, if so selected. If chosen, districts must accommodate separate testing areas for affected students and proctors during the tests.

District Implementation:

At the local level, testing can present many challenges for districts both large and small. However, planning in advance for these elements can make them go smoother. The first issue to think about is the *unanticipated* costs associated with an increase in testing. The number one *unanticipated* cost is usually staff time needed to participate in scoring the state's assessments

and time needed to maintain accommodations required by student's IEPs. Another cost that is often associated with staff time is the cost for substitute teachers. They are often needed to cover for teachers scoring the exams, and in some cases help with the proctoring of exams.

A District's Perspective:

At Mt. Carroll, IL when we administer the state tests we also administer the Iowa to grades not affected by the state tests. At the elementary level we do not hire anyone additionally that week, however--we adjust some services that are offered that week of testing. For instance, the biggest problem for testing is when IEPs allow people to read the tests to an individual or group. That takes a tremendous amount of organization on our part because we try so hard not to hire a substitute and still follow the IEP. Aides may not work with a teacher that week so they can be available to read certain tests. This is a real problem at the secondary level since we have only one full-time aide that works with our special education students. We may pay teachers for their prep time to read tests at the high school. It takes so much coordination and planning. Since we are so small, the burden of this planning concentrates around the one guidance counselor we have, two administrators and our reading recovery/Title I teacher.

Mary Bush, Superintendent, Mt. Carroll Community School District, IL

It is likely that those states, such as Alabama and Texas, currently meeting the requirements to test ALL students in grades 3 through 8 in math and reading, will feel no great increase in administrative requirements from the testing. However, states like Kansas and Michigan, who are only doing limited state testing will see a much greater adjustment. In many states, costs for substitutes are often partially if not fully covered. Local districts should work with their state departments to create a cost sharing plan for some of these *unanticipated* costs.

States have been given an initial payment \$387 million dollars to help develop the assessments during the 2002 - 2003 school year. These new dollars can be used to increase the validity and reliability of current state assessments, align new assessments with state standards, or even develop state standards in math, reading and science where none exist. If the states have currently reached the goal of testing every student in grades 3 through 8 then they can use the new dollars to help develop better state wide reporting systems for student data or to help defray costs of administering the assessments.

An important change in state scoring of assessments is that detailed item analysis is now required down to the school district level. This will be important for helping districts to use the assessments as an opportunity to improve student achievement. In the past, many districts received a numeric grade for each student on the assessments with no knowledge of how they did on each of the different content areas tested. With detailed analysis, teachers and principals will be able to see instructional and student weaknesses and will be better informed to meet the needs of the students. In order to use item analysis to the greatest benefit, districts will have to provide extensive training for teachers and principals on how to analyze and use the data to make instructionally based decisions.

Finally, the National Assessment of Educational Progress (NAEP) will be required for grades 4 and 8 in reading and math, every other year. To be consistent with current practice, NAEP will be administered to a sample of students across the state. If your school or entire district is chosen to participate by the state, your involvement will be required. No district will be allowed to opt out of the NAEP exams. All NAEP associated costs are to be covered by the states.

Section II. Testing of Limited English Proficient Students

Title 1 Section 1111(b)(2)(C)(III) *the inclusion of limited English proficient students, who shall be assessed in a valid and reliable manner and provided reasonable accommodations on assessments administered to such students under this paragraph, including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency as determined under paragraph (7);*

(7) ACADEMIC ASSESSMENTS OF ENGLISH LANGUAGE PROFICIENCY- *Each State plan shall demonstrate that local educational agencies in the State will, beginning not later than school year 2002-2003, provide for an annual assessment of English proficiency (measuring students' oral language, reading, and writing skills in English) of all students with limited English proficiency in the schools served by the State educational agency, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of this paragraph by that deadline and that the State will complete implementation within the additional 1-year period.*

(x) notwithstanding subclause (III), the academic assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (not including Puerto Rico) for three or more consecutive school years, except that if the local educational agency determines, on a case-by-case individual basis, that academic assessments in another language or form would likely yield more accurate and reliable information on what such student knows and can do, the local educational agency may make a determination to assess such student in the appropriate language other than English for a period that does not exceed two additional consecutive years, provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on tests (written in English) of reading or language arts;

Policy Implications:

Each state must provide for the local education agency's annual assessment of limited English proficiency students (measuring oral, reading, and writing skills) beginning in the 2002-2003 school year. Policy must ensure that this requirement will be met in order to ascertain the rate of English language acquisition for each individual student.

The second issue in regard to policy implications is the formulation of policy that sets "reasonable accommodations" for the first three years. While "reasonable accommodations" is not defined, the legislation clearly notes that assessment in the language and form most likely to yield accurate data on what such students know may be conducted up to three consecutive years for a student attending school within the United States. Therefore "reasonable accommodations" may include alternative forms of testing in both language and presentation.

Students with limited English proficiency, attending school in the U. S. for three or more consecutive years, must be tested in English unless the LEA determines otherwise. Such determination shall be on a case-by-case basis. In this regard, it is critical for each state to adopt policy ensuring a consistent mechanism by which to determine when testing in other than English may take place.

For rural and small schools, with limited numbers of LEP students and finite resources, reasonable accommodation issues are critical.

District Implementation:

For rural and small school districts, determining the rate of English language proficiency of their students is the most important step in the process. Starting in the 2002 – 2003 school year, all districts are required to test all non-English speakers as to their rate of English acquisition. This assessment must happen yearly and measure the student's progress towards a set of goals. Understanding these results may take expert analysis and staff development, but will assuredly involve state level policy.

If the student has resided in the U.S. for less than three full school years, they may be given the state assessments in a language that will provide the most accurate results. Unfortunately with the hundreds of different languages that are out there, it is unlikely that SEAs will be able to develop their state assessments in all possible languages. It is more than likely that the states will settle on a few more populated languages such as Spanish, Japanese and Chinese (but probably in only one of the dialects). Therefore it is incumbent on the district to decide how to test the individual student with the available translations of the state assessment.

Once the student has resided in the U.S. for three or more years, the student must complete the state assessments in English. There is the possibility of a waiver on a year to year basis, but there must be an extenuating circumstance in order to qualify for a waiver. There are several states that already test all students in English, such as California, Arizona and most recently Massachusetts. Small and rural districts can learn from the techniques that districts in those previously affected states used to comply with their state law.

III. Adequate Yearly Progress

Title 1 Section 1111 (b)(2)(C)

(B) ADEQUATE YEARLY PROGRESS- Each State plan shall demonstrate, based on academic assessments described in paragraph (3), and in accordance with this paragraph, what constitutes adequate yearly progress of the State, and of all public elementary schools, secondary schools, and local educational agencies in the State, toward enabling all public elementary school and secondary school students to meet the State's student academic achievement standards, while working toward the goal of narrowing the achievement gaps in the State, local educational agencies, and schools.

(C) DEFINITION- Adequate yearly progress' shall be defined by the State in a manner that--

(i) applies the same high standards of academic achievement to all public elementary school and secondary school students in the State;

(ii) is statistically valid and reliable;

(iii) results in continuous and substantial academic improvement for all students;

(iv) measures the progress of public elementary schools, secondary schools and local educational agencies and the State based primarily on the academic assessments described in paragraph (3);

(v) includes separate measurable annual objectives for continuous and substantial improvement for each of the following:

(I) The achievement of all public elementary school and secondary school students.

(II) The achievement of--

(aa) economically disadvantaged students;

(bb) students from major racial and ethnic groups;

(cc) students with disabilities; and

(dd) students with limited English proficiency;

except that disaggregation of data under subclause

(II) shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student;

(vi) in accordance with subparagraph (D), includes graduation rates for public secondary school students (defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years) and at least one other academic indicator, as determined by the State for all public elementary school students; and

(vii) in accordance with subparagraph (D), at the State's discretion, may also include other academic indicators, as determined by the State for all public school students, measured separately for each group described in clause (v), such as achievement on additional State or locally administered assessments, decreases in grade-to-grade retention rates, attendance rates, and changes in the percentages of students completing gifted and talented, advanced placement, and college preparatory courses.

(D) REQUIREMENTS FOR OTHER INDICATORS- In carrying out subparagraph (C)(vi) and (vii), the State--

(i) shall ensure that the indicators described in those provisions are valid and reliable, and are consistent with relevant, nationally recognized professional and technical standards, if any; and

(ii) except as provided in subparagraph (I)(i), may not use those indicators to reduce the number of, or change, the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 if those additional indicators were not used, but may use them to identify additional schools for school improvement or in need of corrective action or restructuring.

(E) STARTING POINT- Each State, using data for the 2001-2002 school year, shall establish the starting point for measuring, under subparagraphs (G) and (H), the percentage of students meeting or exceeding the State's proficient level of academic achievement on the State assessments under paragraph (3) and pursuant to the timeline described in subparagraph (F). The starting point shall be, at a minimum, based on the higher of the percentage of students at the proficient level who are in--

(i) the State's lowest achieving group of students described in subparagraph (C)(v)(II); or

(ii) the school at the 20th percentile in the State, based on enrollment, among all schools ranked by the percentage of students at the proficient level.

(F) TIMELINE- Each State shall establish a timeline for adequate yearly progress. The timeline shall ensure that not later than 12 years after the end of the 2001-2002 school year, all students in each group described in subparagraph (C)(v) will meet or exceed the State's proficient level of academic achievement on the State assessments under paragraph (3).

(G) MEASURABLE OBJECTIVES- Each State shall establish statewide annual measurable objectives, pursuant to subparagraph (C)(v), for meeting the requirements of this paragraph, and which--

(i) shall be set separately for the assessments of mathematics and reading or language arts under subsection (a)(3);

(ii) shall be the same for all schools and local educational agencies in the State;

(iii) shall identify a single minimum percentage of students who are required to meet or exceed the proficient level on the academic assessments that applies separately to each group of students described in subparagraph (C)(v);

(iv) shall ensure that all students will meet or exceed the State's proficient level of academic achievement on the State assessments within the State's timeline under subparagraph (F); and

(v) may be the same for more than 1 year, subject to the requirements of subparagraph (H).

(H) INTERMEDIATE GOALS FOR ANNUAL YEARLY PROGRESS- Each State shall establish intermediate goals for meeting the requirements, including the measurable objectives in subparagraph (G), of this paragraph and that shall--

(i) increase in equal increments over the period covered by the State's timeline under subparagraph (F);

(ii) provide for the first increase to occur in not more than 2 years; and

(iii) provide for each following increase to occur in not more than 3 years

(I) ANNUAL IMPROVEMENT FOR SCHOOLS- Each year, for a school to make adequate yearly progress under this paragraph--

(i) each group of students described in subparagraph (C)(v) must meet or exceed the objectives set by the State under subparagraph (G), except that if any group described in subparagraph (C)(v) does not meet those objectives in any particular year, the school shall be considered to have made adequate yearly progress if the percentage of students in that group who did not meet or exceed the proficient level of academic achievement on the State assessments under paragraph (3) for that year decreased by 10 percent of that percentage from the preceding school year and that group made progress on one or more of the academic indicators described in subparagraph (C)(vi) or (vii); and

(ii) not less than 95 percent of each group of students described in subparagraph (C)(v) who are enrolled in the school are required to take the assessments, consistent with paragraph (3)(C)(xi) and with accommodations, guidelines, and alternative assessments provided in the same manner as those provided under section 612(a)(17)(A) of the Individuals with Disabilities Education Act and paragraph (3), on which adequate yearly progress is based (except that the 95 percent requirement described in this clause shall not apply in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student).

(J) UNIFORM AVERAGING PROCEDURE- For the purpose of determining whether schools are making adequate yearly progress, the State may establish a uniform procedure for averaging data which includes one or more of the following:

(i) The State may average data from the school year for which the determination is made with data from one or two school years immediately preceding that school year.

(ii) Until the assessments described in paragraph (3) are administered in such manner and time to allow for the implementation of the uniform procedure for averaging data described in clause (i), the State may use the academic assessments that were required under paragraph (3) as that paragraph was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001, provided that nothing in this clause shall be construed to undermine or delay the determination of adequate yearly progress, the requirements of section 1116, or the implementation of assessments under this section.

(iii) The State may use data across grades in a school.

Policy Implications:

Each state must demonstrate, based on academic assessments of student achievement, what constitutes adequate yearly progress for the state, local educational agencies and all public schools toward enabling all students to meet academic standards and narrowing the achievement gap.

Adequate Yearly Progress (AYP) is defined in a manner that sets a common standard for all students in the state based upon statewide testing that has been developed to yield statistically reliable and valid results. The basic premise for AYP is that 100% of the students within a state will reach proficiency on the state exams by 2014. For example, if passing on the state 5th grade math assessment is 65, AYP states that all students in the 5th grade will get 65 or higher on the state math assessment in 2014.

The results of this assessment must be measured in continuous and substantial improvement for all students based on yearly objectives (see below) for all schools and districts within the state.

The results of assessment must include separate, measurable, annual objectives for continuous and substantial improvement for:

All public school students
Economically disadvantaged students
Students from major racial and ethnic groups
Students with disabilities, and
Students with limited English proficiency

The State must include graduation rates for secondary school students, and one other academic indicator in completing this requirement. Please note that graduation rate is defined as the percentage of students graduating with a regular diploma in the standard number of years.

Other academic indicators include:

- achievement on additional state or local assessments
- decreases in grade-to-grade retention rates
- attendance rates
- changes in the percentages of students completing gifted and talented, advanced placement, and college preparatory courses
- other appropriate measures

Elementary schools must include at least one of the above "other" academic indicators.

Starting Point. Each state, using data from the 2001-2002 school year as the baseline data, must establish the starting point for measuring the percentage of students meeting or exceeding the state's "proficient" level of academic achievement. At a minimum, the starting point must be based on the higher percentage of students at the "proficient" level in either:

- The lowest achieving sub-group of students in the state (as disaggregated above), or
- The school in the 20th percentile of all schools in the state (ranked by students at the proficient level).

Timeline. Each state must establish a timeline for AYP. The timeline must ensure that by the 2014 school year all students in each major student group will meet the state's proficient level of academic achievement.

Annual Measurable Objectives. Each state must establish statewide annual measurable objectives for adequate yearly progress, which:

- Must be set separately for math and reading
- Must be the same for all schools
- Must identify the minimum percentage of students required to meet the proficient level (applied separately for each major student group)
- Ensures that all students meet the proficiency standard in 12 years
- May be the same for more than 1 year, subject to intermediate goals (below).

Intermediate Goals for Adequate Yearly Progress. Each state must establish intermediate goals for meeting the 12-year proficiency requirement. The intermediate goals must:

- Increase in equal increments over the 12-year timeline
- Set the first increase to occur in not more than 2 years, and
- Provide for each following increase to occur at least every 3 years.

Annual Improvement for Schools. For a school to make adequate yearly progress:

- Each group of students must meet the annual objectives set by the state and will be considered to have met the objective if the percentage of students who did not meet the state's proficient level is reduced by 10 percent
- And have made progress on one of the other academic indicators
- At least 95% of each group of students in the school are required to take the assessment

Uniform Averaging of Data. For the purpose of determining whether schools are making adequate yearly progress, the state may establish a uniform procedure for averaging data including the following:

- A state may average data from a school year with the 1 or 2 years immediately preceding that one
- Until assessments are in place that provide uniform data, states may use data from assessments that were required under the 1994 ESEA law
- A state may average data across grades in a school

"Rural Exemption": Rural schools are particularly impacted by two provisions in the legislation relating to size issues in determining AYP. The first is the issue of statistically reliable numbers, and the determination as to whether a school can even participate in AYP. The second is the issue of disaggregating to the point where individual schools/grades may be identifiable.

1) Statistical reliability and validity

Within the United States, the average elementary school contains 68 students per grade level (Kane and Staiger, 2001). This is important because it means that the amount of variation due to the particular talents of one student can make a striking difference in the outcome of the whole class. The smaller the size of the sample, the more variation is induced. Variation is known as reliability, and is concerned with the consistency of scores across time. The higher the reliability, the more confidence we can have that obtained scores will be consistent.

In small classes, most notable in small and rural school systems, the small size of the class can have an impact on school performance measures. In a class of 20 students, one student's performance is equivalent to 5% of the total outcome. In these cases, it is easy to see the impact of one student. If reporting is done down to the class level, it is easy to see that small class size can be a tremendous influence in some schools. Reporting even at the school level is subject to the same concerns.

The National Center for Education Statistics uses 30 in a group as a minimum. This addresses the fairness issue, but particularly in small and rural schools, would eliminate substantial numbers of subgroups. This, then, raises significant issues as to *validity*.

Eliminating substantial numbers of schools could undermine the believability of school, district, and state report cards, casting doubt on the overall process. The validity of an assessment deals with

- does it measure what it was intended to measure
- can we draw reasonable inferences from the data

The capacity to draw reasonable inference often is in contrast with reliability's stress on the importance of consistency of outcomes. The number of students necessary to have one may be quite different from the number necessary for the other.

There is no "best approach" to these issues. Reliability is critical in ensuring consistency in measurement...we don't want scores to change for any reason other than the impact of instruction. Validity is important in that it enables us to believe the outcomes. Each assessment presents with a tension between the two. State policy makers must understand these tensions as they determine the manner in which students will be assessed.

2) Confidentiality

The question here is "When are there too few students in a subgroup to allow disaggregation that will not reveal personally identifiable information?"

There are several issues in this relatively straightforward question.

- The higher the minimum set to maintain confidentiality, the fewer subgroups will be disaggregated. This has two potential outcomes: With fewer subgroups reported, fewer schools will be classified as in need of school improvement. However, if too many schools are excluded, the validity of the entire system may be called into question.
- The lower the minimum set to maintain confidentiality, the more easily individual students can be identified. If three students comprise a single cell (disaggregated information), and I know one student's score, only two others need to be discerned and I have information on all the students in that cell. When considering small and rural schools, what is the minimum number to ensure that no single student can be identified?
- Once a standard has been set, the same minimum number of students must apply to all schools and all districts in a state. This is an equity issue and avoids manipulation of rules to benefit individual schools or districts. Without this, validity, once again, becomes an issue.

State Board members should note that fourteen states use five or six students as a minimum to report data. Five additional states use ten as the minimum number. While it is generally considered that a minimum of five provides acceptable levels of confidentiality, when a subgroup has enough students to meet minimums there may still be an issue when reporting achievement level scores. When reporting basic, proficient, and advanced levels of performance, there may be

cells that contain fewer students than the criterion for the subgroup. For example, State Z sets a minimum of ten and there are 10 students in a subgroup. But what happens when the scores are reported and only two students are at the basic level? Maintaining confidentiality becomes an issue.

In the release of the Title I regulations by the U.S. Department of Education in December 2002, the department advised that it would issue non-regulatory guidance on particular methodologies for handling school districts that are too small to include any subgroups. As of press time, this non-regulatory guidance has yet to be released. Check www.ed.gov for the latest information.

District Implementation:

Adequate yearly progress (AYP) has the potential to be the most complicated issue for rural and small schools. At face value, most small districts will not have enough students to make the AYP calculations statistically reliable. While in larger rural, suburban or urban districts improvements will be based on the performance of a large number of students, in the smaller districts the performance of one or two students can determine the success or failure of that school. NCLB contains language that requires the state AYP formula to be determined with numbers that are statistically reliable, however, the law failed to state what that specific number was leaving it up to the states to decide. The number being used seems to vary state by state. It will be important to contact your state department to determine what number is being used for your state.

What happens if your school building has a smaller number of students than the state number being used? In those cases AYP will be determined on a full district level rather than school by school. There will be some districts that will have a small number of students district wide then the number the state chooses to use. In these cases, districts will have to work with states to agree on an alternative way to judge student and school success.

Another issue confronting rural districts with smaller populations is disaggregation of student results based on sub-groups. Once again, this concern is based on the small number of students in most rural schools. NCLB contains important language that prevents districts from disaggregating to the point at which students would be individually identifiable. This would be a violation of Family Education Rights and Privacy Act (FERPA). It will also make it more difficult for rural districts to track students based on their sub-group classification.

Also at issue is the requirement that 95 percent of each of the sub-groups take the assessment. While in theory, this is supposed to prevent districts from excluding their lowest performing students from counting towards the assessment results, it also has a very strict effect on rural districts. For example, if a state chooses to aggregate scores across grade levels and a district only has 10 disabled students, all 10 of those students must take the assessment in order for the district to meet the 95 percent requirement. While there is still discussion of what percentage of those 10 students could take an alternative assessment, overall, districts would risk failure unless all of those students took the state exam. To take extra precaution, rural districts will want to work with their states to make sure there is ample availability of makeup days for the assessment to provide for those students that might have missed school on the day of the exam.

So what can rural districts do to prepare for the requirements under AYP? First of all, districts should be working closely with their state education agencies to ensure proper AYP alternatives have been developed for those districts with small student populations. Secondly, districts should

be developing data systems accessible to all teachers and principals to allow them to deal with the growing influx of student data, including assessments scores. These numbers are going to be increasingly important in the coming years and it is important to have something in place to help you and your staffs interpret the results and translate them into changes in instructional practice. (See Key Resources at the end of this document for tips on how to establish your own data system for little or no cost).

"Almost All" Clause: Sec.1116. (b)(1)(A) states: *...a local educational agency shall identify for school improvement any elementary school or secondary school served under this part that fails, for 2 consecutive years, to make adequate yearly progress as defined in the State's plan under section 111(b)(2).* Section 1116.(b)(1)(C) states: *Subparagraph (A) shall not apply to a school if almost every student in each group specified in section 111(b)(2)(C)(v) enrolled in such school is meeting or exceeding the State's proficiency level of academic achievement.*

Taken together these sections clearly indicate that the LEA may decline to identify a school as *In Need of Improvement* based on an LEA's determination that almost every student is achieving proficiency. "Almost" is, as of this time, not defined by the U. S. Department of Education.

IV. School choice

Title 1 Section 1116(b)(1)(E) PUBLIC SCHOOL CHOICE-

(i) **IN GENERAL-** In the case of a school identified for school improvement under this paragraph, the local educational agency shall, not later than the first day of the school year following such identification, provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, which may include a public charter school, that has not been identified for school improvement under this paragraph, unless such an option is prohibited by State law.

(ii) **RULE-** In providing students the option to transfer to another public school, the local educational agency shall give priority to the lowest achieving children from low-income families, as determined by the local educational agency for purposes of allocating funds to schools under section 1113(c)(1).

(F) **TRANSFER-** Students who use the option to transfer under subparagraph (E) and paragraph (5)(A), (7)(C)(i), or (8)(A)(i) or subsection (c)(10)(C)(vii) shall be enrolled in classes and other activities in the public school to which the students transfer in the same manner as all other children at the public school.

Title 1 Section 1116(b)(10)

FUNDS FOR TRANSPORTATION AND SUPPLEMENTAL EDUCATIONAL SERVICES-

(A) **IN GENERAL-** Unless a lesser amount is needed to comply with paragraph (9) and to satisfy all requests for supplemental educational services under subsection (e), a local educational agency shall spend an amount equal to 20 percent of its allocation under subpart 2, from which the agency shall spend -

(i) an amount equal to 5 percent of its allocation under subpart 2 to provide, or pay for, transportation under paragraph (9);

(ii) an amount equal to 5 percent of its allocation under subpart 2 to provide supplemental educational services under subsection (e); and

(iii) an amount equal to the remaining 10 percent of its allocation under subpart 2 for transportation under paragraph (9), supplemental educational services under subsection (e), or both, as the agency determines.

(B) **TOTAL AMOUNT-** The total amount described in subparagraph (A)(ii) is the maximum amount the local educational agency shall be required to spend under this part on supplemental educational services described in subsection (e).

Policy Implications:

Schools identified as needing "improvement" (after the 2nd year) must provide all students the option to transfer to another better performing public school. As part of this transfer, the school must provide transportation. A child so transferring may, at parental request, remain in the alternative school until the school of origin is no longer in need of improvement.

There are several issues present for those managing these issues in rural areas. First, the regulations clearly call for school choice. Policy must be present clearly indicating the availability of choice provisions. The fact that, in rural areas, choice may not be a functional alternative does not obviate the need to have it available. In rural areas, decisions as to the presence (or absence) of choice alternatives require attention to the transparency of decisions. All alternatives must be presented, and discussed, in an open meeting framework with ample documentation of both decisions and the rationale for that decision.

If public school choice is not available in rural areas, then states may encourage them to adopt supplemental services a year earlier. (See section on supplemental services, page 16).

District Implementation:

At face value, school choice can raise a large variety of questions for rural districts. From availability of choice schools, to transportation costs and time, rural administrators will have to make sure that all questions have been answered before they determine if this is an option for their district if they are in need of improvement.

The first question to answer is the feasibility of offering choice to your students. Is there another elementary or high school within the district? If there is more than one available choice school, does one make more sense than the other due to transportation? Is there a neighboring district that would be willing to develop an inter-district choice plan? All of these questions must be answered and documented on a yearly basis. Though none of these may seem an option at the offset, there must be transparency in the local efforts to arrange options for students.

If school choice is available, the local district will have to look at transportation options. Already transportation costs per student in rural America are among the highest. Cost of transportation may also factor into the feasibility of a plan. Local districts can spend up to an amount equal to 15 percent of the district's Title I allocation. Unfortunately, since these allocations are based on student populations, the small number of students in rural districts does not amount to much funding.

Finally, it is important to stress that in rural areas, where applicable, parents must be offered a choice of more than one school. All parents of eligible students must be offered the choice, but transportation can be limited to those that the district can financially support. Choice must continue to be offered until the school of origin is no longer in need of improvement.

The most important element is to make sure that parents are kept abreast of the process and their options. If the local administration, after extensive review, decides that public school choice is not an option for their district, they should offer students the option of supplemental services, if available, or work with the parents to provide any additional help for those students in need.

A District's Perspective:

Our experience with school choice is that we are located on an island and it is next to impossible for our students to choose a different school or for students to choose our school. Choice has benefits, but for a small isolated rural district it does not work as it is written on paper. Instead, we have implemented an Interactive Television Classroom with the other twelve schools in our Intermediate School District. The program has been in existence for 12 years. Lake Superior State University is also involved and offers college level courses to qualified students. Our Juniors and Seniors can enroll as dual enrolled students allowing them to take college courses if they meet certain criteria. Some of the students actually moved to the location of the college or university and became full-time students and others have taken courses via the internet or correspondence. This may not be true public school choice, but it is a form of choice which benefits our students. Our experiences with these programs have been very positive for all involved. We also have students taking course work at the Michigan Virtual High School which is working well for everyone. These choices allow our students a broader choice of courses and we can expand our curriculum without breaking our budget.

Gary Urman, Superintendent, Mackinac Island Public School, Michigan

V. Supplemental Services

Title 1 Section 1116e SUPPLEMENTAL EDUCATIONAL SERVICES-

(1) SUPPLEMENTAL EDUCATIONAL SERVICES- In the case of any school described in paragraph (5), (7), or (8) of subsection (b), the local educational agency serving such school shall, subject to this subsection, arrange for the provision of supplemental educational services to eligible children in the school from a provider with a demonstrated record of effectiveness, that is selected by the parents and approved for that purpose by the State educational agency in accordance with reasonable criteria, consistent with paragraph (5), that the State educational agency shall adopt.

(2) LOCAL EDUCATIONAL AGENCY RESPONSIBILITIES- Each local educational agency subject to this subsection shall—

(A) provide, at a minimum, annual notice to parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of—

(i) the availability of services under this subsection;

(ii) the identity of approved providers of those services that are within the local educational agency or whose services are reasonably available in neighboring local educational agencies; and

(iii) a brief description of the services, qualifications, and demonstrated effectiveness of each such provider;

(B) if requested, assist parents in choosing a provider from the list of approved providers maintained by the State;

(C) apply fair and equitable procedures for serving students if the number of spaces at approved providers is not sufficient to serve all students; and

(D) not disclose to the public the identity of any student who is eligible for, or receiving, supplemental educational services under this subsection without the written permission of the parents of the student.

(3) AGREEMENT- In the case of the selection of an approved provider by a parent, the local educational agency shall enter into an agreement with such provider. Such agreement shall—

(A) require the local educational agency to develop, in consultation with parents (and the provider chosen by the parents), a statement of specific achievement goals for the student, how the student's progress will be measured, and a timetable for improving achievement that, in the case of a student with disabilities, is consistent with the student's individualized education program under section 614(d) of the Individuals with Disabilities Education Act;

(B) describe how the student's parents and the student's teacher or teachers will be regularly informed of the student's progress;

(C) provide for the termination of such agreement if the provider is unable to meet such goals and timetables;

(D) contain provisions with respect to the making of payments to the provider by the local educational agency; and

(E) prohibit the provider from disclosing to the public the identity of any student eligible for, or receiving, supplemental educational services under this subsection without the written permission of the parents of such student.

(4) STATE EDUCATIONAL AGENCY RESPONSIBILITIES- A State educational agency shall—

(A) in consultation with local educational agencies, parents, teachers, and other interested members of the public, promote maximum participation by providers to ensure, to the extent practicable, that parents have as many choices as possible;

(B) develop and apply objective criteria, consistent with paragraph (5), to potential providers that are based on a demonstrated record of effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the State academic content and student achievement standards adopted under section 1111(b)(1);

(C) maintain an updated list of approved providers across the State, by school district, from which parents may select;

(D) develop, implement, and publicly report on standards and techniques for monitoring the quality and effectiveness of the services offered by approved providers under this subsection, and for withdrawing approval from providers that fail, for 2 consecutive years, to contribute to increasing the academic proficiency of students served under this subsection as described in subparagraph (B); and

(E) provide annual notice to potential providers of supplemental educational services of the opportunity to provide services under this subsection and of the applicable procedures for obtaining approval from the State educational agency to be an approved provider of those services.

(5) CRITERIA FOR PROVIDERS- In order for a provider to be included on the State list under paragraph (4)(C), a provider shall agree to carry out the following:

(A) Provide parents of children receiving supplemental educational services under this subsection and the appropriate local educational agency with information on the progress of the children in increasing achievement, in a format and, to the extent practicable, a language that such parents can understand.

(B) Ensure that instruction provided and content used by the provider are consistent with the instruction provided and content used by the local educational agency and State, and are aligned with State student academic achievement standards.

(C) Meet all applicable Federal, State, and local health, safety, and civil rights laws.

(D) Ensure that all instruction and content under this subsection are secular, neutral, and nonideological.

(6) AMOUNTS FOR SUPPLEMENTAL EDUCATIONAL SERVICES- The amount that a local educational agency shall make available for supplemental educational services for each child receiving those services under this subsection shall be the lesser of-

(A) the amount of the agency's allocation under subpart 2, divided by the number of children from families below the poverty level counted under section 1124(c)(1)(A); or

(B) the actual costs of the supplemental educational services received by the child.

(7) FUNDS PROVIDED BY STATE EDUCATIONAL AGENCY- Each State educational agency may use funds that the agency reserves under this part, and part A of title V, to assist local educational agencies that do not have sufficient funds to provide services under this subsection for all eligible students requesting such services.

(8) DURATION- The local educational agency shall continue to provide supplemental educational services to a child receiving such services under this subsection until the end of the school year in which such services were first received.

(9) PROHIBITION- Nothing contained in this subsection shall permit the making of any payment for religious worship or instruction.

Title 1 Section 1116(b)(10)

FUNDS FOR TRANSPORTATION AND SUPPLEMENTAL EDUCATIONAL SERVICES-

(A) IN GENERAL- Unless a lesser amount is needed to comply with paragraph (9) and to satisfy all requests for supplemental educational services under subsection (e), a local educational agency shall spend an amount equal to 20 percent of its allocation under subpart 2, from which the agency shall spend-

(i) an amount equal to 5 percent of its allocation under subpart 2 to provide, or pay for, transportation under paragraph (9);

(ii) an amount equal to 5 percent of its allocation under subpart 2 to provide supplemental educational services under subsection (e); and

(iii) an amount equal to the remaining 10 percent of its allocation under subpart 2 for transportation under paragraph (9), supplemental educational services under subsection (e), or both, as the agency determines.

(B) TOTAL AMOUNT- The total amount described in subparagraph (A)(ii) is the maximum amount the local educational agency shall be required to spend under this part on supplemental educational services described in subsection (e).

(C) INSUFFICIENT FUNDS- If the amount of funds described in subparagraph (A)(ii) or (iii) and available to provide services under this subsection is insufficient to provide supplemental educational services to each child whose parents request the services, the local educational agency shall give priority to providing the services to the lowest-achieving children.

Policy Implications:

Schools identified in their second year as needing improvement (after 3rd year of data showing lack of adequate progress) must provide *supplemental services* to students (tutoring, after school programs, summer school). Parents are provided a list of providers from which they choose. The LEA facilitates access to the desired provider.

Supplemental services are available to students from low-income families who attend schools that have not made adequate yearly progress for two years and therefore, have been designated as in need of improvement, as well as schools that have not improved after the initial two-year period and are thus subject to corrective action or restructuring.

It is evident that the State must set standards for providers of supplemental services. The State has the responsibility to approve potential providers; therefore the State may set standards and reporting requirements as part of their policy. Reporting requirements are not addressed in the law, yet are critical as States move to approve providers. Frequent, reliable, and usable communication with the school should be set as part of minimum requirements.

In establishing approved providers, it is also critical that the State rely on transparency in the process as a safeguard. Providers must be assured that decisions are made on a rational basis, not part of some unknown process. Therefore the mantra of documentation and transparency must be repeated.

It is anticipated that a category of provider supplying online supplemental services will be part of the eligible offerings. Consider these entities as all other providers. They may offer the greatest possibility of offering supplemental services in areas without actual providers, such as rural areas. However, when accepting online providers, the level of technology needed at the local level must be made clear. Issues related to communication with the school may be more critical for those providing services at a distance from the school site. Therefore, communication provisions may also be paramount.

The criteria for the approval of supplemental service providers should include:

- A demonstrated record of effectiveness, as defined by the states, in improving student academic achievement;
- Documentation that the instructional strategies used by the provider are of high quality and are research based;
- Assurance that services are consistent with the instructional program of the local education agency and with state academic content standards;
- Evidence that the provider is financially sound; and
- Assurance by the organization that it will provide supplemental educational services consistent with applicable federal, state and local health, safety and civil rights laws.

State education agencies, responsible for determining the list of eligible providers, may not discriminate against potential supplemental services providers with regard to religion or any other factor. Recent USED rules clearly encourage faith-based organizations (FBOs) in their efforts to become supplemental service providers. Analysis of these rules indicates that these organizations must meet all the requirements of non-faith based organizations.

FBOs that receive funding to provide supplemental services may maintain their religious character and identity, but may not discriminate against beneficiaries based on religion.

Federal funds may not be used to support religious practices, such as religious instruction, worship or prayer. FBOs may offer such practices, but not as part of the supplemental educational services. FBOs should comply with accounting requirements to ensure that federal funds are not used to support these activities.

Finally, both the State and the LEA are responsible for ensuring that eligible students with disabilities or covered under Section 504 participate and have options open to them. Supplemental service providers must make the necessary accommodations to meet the needs of these students. Every provider is not required to provide such accommodations but there must be some choice offered among the eligible supplemental service providers for students with disabilities.

District Implementation:

In NCLB, the federal government sets forth two different ways to help students who are located in failing schools. The first of these is public school choice, which was discussed in the previous section. The second level of federal direction is supplemental services. To put it at the simplest levels, supplemental services are out-of-school services (e.g. Tutoring) for students in need. It is the responsibility of the LEA to provide these services to those students with the highest poverty levels and the lowest achievement on the state assessments.

For districts, supplemental services may represent the largest increases in administrative effort in all of NCLB. After the state identifies a list of eligible providers, it is up to the local district to determine which providers are within range of the school and to notify all parents of eligible students of the option for tutoring. Unlike public school choice, supplemental services do not have to be offered to all students within the school. The local district is allowed to give priority status to students as listed above, based on amount of available funds.

Funding for supplemental services is also required, and is set as an amount within Title I funding. The local district is required to spend an amount equal to 5 percent of its Title I allocation. They are then allowed to spend up to an additional 10 percent equal to its Title I allocation that is also shared with transportation expenditures under the public school choice provisions. Again, this will not always equate into a large amount of available funds in rural districts, but the challenge is making the most with what the district has. The amount spent on supplemental services should be equal to the cost of the actual services or the amount available under Title I divided by the number of eligible students. The US Department of Education is currently advising local districts to reserve an amount equal to 20 percent of your Title I allocation for supplemental services and public school choice, even if the state has yet to release a list of eligible providers.

There are a series of questions to ask about supplemental service providers in rural areas. First, the basic question, are there even providers available within the district area? For this first

situation, it is incumbent on local districts to work with their state departments of education to ensure there are options available to rural districts. There are two major categories that should be open to most rural districts. First of all, in the over 39 states that have educational service agencies (ESAs), this can be an option for rural districts. Most rural districts already have collaborative agreements with their ESAs, so the addition of tutoring services will not be a stretch. Plus ESAs are generally very knowledgeable about local education goals and curriculum and could ensure that tutoring is inline with those goals.

The other option open to most local areas will be online distance learning providers. In these cases, districts can offer individualized tutoring plans over I-TV systems or through the internet. Either way, districts will overcome the geographic isolation that supplemental services can highlight. It is most important to ensure that the local school has the necessary technology available to make distance learning work. In some areas, internet access is still hard to come by. But hopefully through a combination of E-Rate funding, Education technology dollars under Title II, Part D (discussed later) and possible Rural Education Achievement Program (REAP) dollars (discussed later), districts will be able to upgrade their technology to the level required. The concern with using distance learning for supplemental services is that there is little supporting data on student improvement through on-line services.

While it is up to the local district to present all of the available options to all of the eligible parents, the parent makes the ultimate choice of what kind of tutoring they want for their child. Once the parent makes the choice, the LEA must work with the provider to map an individual chart of success for each participating student. This is what will take the most time. From there, it is up to the State and the LEA to monitor the provider and ensure the proper services are being given. It is also up to the LEA to oversee that the civil rights of any individual students are not being violated by the providers.

In the case that supplemental services are not available within the district, it is once again a case of transparency and documentation. (*See the breakout box*). The district must demonstrate that all options were investigated and ruled out only after careful consideration. Again, we stress that parents be kept abreast of any developments as they occur.

What happens if there are no approved providers that offer services in an LEA?

A local education agency (LEA) may request an exemption from the state education agency (SEA) for all or part of the supplemental service requirement. An exemption can only be granted if two conditions are met: (1) the SEA determines that none of the approved providers can make their services available in the LEA within the general geographic location of the LEA, or via distance learning; and (2) the LEA provides evidence that it cannot provide these services.

The SEA must notify the LEA of approval or disapproval of its exemption request within 30 days of receiving the request. Where services seem limited, an SEA should seek to include providers who deliver services using e-learning, online or distance learning technologies. Prior approving an exemption, the SEA should require the LEA to explain why it is unable to use distance-learning technologies to make supplemental educational services available to eligible students.

Supplemental Educational Services: Non-Regulatory Guidance Draft, 12/12/02

VI. Paraprofessionals

Title I Section 1119

NEW PARAPROFESSIONALS-

(1) **IN GENERAL-** Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired after the date of enactment of the No Child Left Behind Act of 2001 and working in a program supported with funds under this part shall have —

(A) completed at least 2 years of study at an institution of higher education;

(B) obtained an associate's (or higher) degree; or

(C) met a rigorous standard of quality and can demonstrate, through a formal State or local academic assessment —

(i) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or

(ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.

(2) **CLARIFICATION-** The receipt of a secondary school diploma (or its recognized equivalent) shall be necessary but not sufficient to satisfy the requirements of paragraph (1)(C).

(d) **EXISTING PARAPROFESSIONALS-** Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired before the date of enactment of the No Child Left Behind Act of 2001, and working in a program supported with funds under this part shall, not later than 4 years after the date of enactment satisfy the requirements of subsection (c).

(e) EXCEPTIONS FOR TRANSLATION AND PARENTAL INVOLVEMENT ACTIVITIES-

Subsections (c) and (d) shall not apply to a paraprofessional —

(1) who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in programs under this part by acting as a translator; or

(2) whose duties consist solely of conducting parental involvement activities consistent with section 1118.

(f) **GENERAL REQUIREMENT FOR ALL PARAPROFESSIONALS-** Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals working in a program supported with funds under this part, regardless of the paraprofessionals' hiring date, have earned a secondary school diploma or its recognized equivalent.

(g) DUTIES OF PARAPROFESSIONALS-

(1) **IN GENERAL-** Each local educational agency receiving assistance under this part shall ensure that a paraprofessional working in a program supported with funds under this part is not assigned a duty inconsistent with this subsection.

(2) **RESPONSIBILITIES PARAPROFESSIONALS MAY BE ASSIGNED-** A paraprofessional described in paragraph (1) may be assigned —

(A) to provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;

(B) to assist with classroom management, such as organizing instructional and other materials;

(C) to provide assistance in a computer laboratory;

(D) to conduct parental involvement activities;

(E) to provide support in a library or media center;

(F) to act as a translator; or

(G) to provide instructional services to students in accordance with paragraph (3).

(3) **ADDITIONAL LIMITATIONS-** A paraprofessional described in paragraph (1) —

(A) may not provide any instructional service to a student unless the paraprofessional is working under the direct supervision of a teacher consistent with section 1119; and

(B) may assume limited duties that are assigned to similar personnel who are not working in a program supported with funds under this part, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.

(h) **USE OF FUNDS-** A local educational agency receiving funds under this part may use such funds to support ongoing training and professional development to assist teachers and paraprofessionals in satisfying the requirements of this section.

Policy Implications:

New Paraprofessionals. Paraprofessionals hired after the date of enactment of the No Child Left Behind Act (January 8, 2002), are required to have:

- Completed at least 2 years of higher education
- Obtained an associate's degree (or higher)
- Met a rigorous standard of quality and can demonstrate through formal state or local academic assessment knowledge of, and the ability to assist in instructing, reading, writing, and mathematics
- *A high school diploma will no longer be sufficient by itself.*

Existing Paraprofessionals. All existing paraprofessionals must meet the new paraprofessional requirements (above) within 4 years of enactment, by January 8, 2006.

Exceptions. Exceptions are made for paraprofessionals who provide services primarily to act as a translator for non-English speaking students or who conduct parental involvement activities. In addition, paraprofessionals working with special education students performing solely custodial activities (non academic) are exempt.

Documentation of qualifications may be completed without written assessment. Therefore, the use of observations and portfolios, alone or in conjunction with standardized tests, may be used. They must, however, be equivalent to the knowledge and skills of second year college students.

District Implementation:

The only provision of NCLB that went into effect the day the legislation was signed into law was the portion relating to paraprofessional requirements. As of that day, any paraprofessionals hired with Title I dollars or in a school-wide Title I school, must meet the above criteria. At the start this was a major concern, because of the lack of communication of the new provision. Initially, there was considerable concern as to the implementation of this immediate requirement. However, with the passage of time, the requirements of this provision became more known and districts were working hard to come into compliance. The idea of requiring more training for paraprofessionals is one that is good in theory but presents problems in implementation. This is even truer in rural areas.

The first issue is the makeup of the current rural paraprofessional pool. In many cases rural paraprofessionals are community members who have volunteered to help out at the school and become more involved, in other areas they might be teachers in training at a local college. The real question is whether additional education and training in areas of geographic isolation is possible and what effect will the increased levels of knowledge have on paraprofessional salaries?

To answer the first question about the feasibility of additional training, rural districts will once again be looking at the likelihood of distance learning. With more and more colleges and universities offering online courses this is an easier option than it was in the recent past. However, a college education is not free. While the local district is not required to pay for the additional training, they are allowed to use up to 5 percent of Title I dollars to provide this training.

Another issue is the likely increase in salary that will be needed to accompany any additional training. Most rural districts are paying their paraprofessionals approximately minimum wage. Yet, districts will be required to pay paraprofessionals more as they increase their training. Unfortunately, this increase in expenses will have to be absorbed by the local district.

The best option for rural districts is to work with their state departments of education on determining the formalized assessment that will be used for their state. This along with a portfolio assessment for current paraprofessionals may offer the least costly and most feasible option to comply with these provisions.

A district's perspective:

Angela Cooper is the Superintendent of Schools in Edgefield County, South Carolina. She came up with a unique model to implement the mandatory changes for paraprofessionals within her district. Her district has 4,100 students, 650 employees, 70 paraprofessionals, and of course no extra money. Most of the paraprofessionals in this district have worked in their positions for 18 years.

Using a 5 step leadership model designed by Kouzes and Posner in 1996 designed for mandatory change in *The Leadership Challenge*, Angela was able to creatively solve the problem. The 5 steps translated to the improvement of paraprofessionals are as follows:

Step 1- Challenging the process: Angela Cooper determined that change was inevitable. In realizing that it must be done she developed a 3 year action plan in order to be in compliance by 2005. She informed all the other district administrators and opened lines of communication. By having a percentage of paraprofessionals become qualified every year, the school districts will see progress over time.

Step 2- Inspiring vision: Angela included all paraprofessionals in the process.

Step 3- Enabling employee support/empowerment: Angela met with paraprofessional groups at different school locations and asked for volunteers. This helped to identify paraprofessional leaders that can act as role models throughout the process.

Step 4- Modeling the way: In order to help the paraprofessionals obtain the necessary skills, Angela arranged for them to take training courses through Adult Education. The school district applied to be a test site and obtained the necessary licensing. The district has also agreed to pay the one time \$40.00 test fee (ETS) for paraprofessionals. Additionally, one of the teachers has gone through training to develop curricula and work with the paraprofessionals to prepare for the ETS. ETS is a 90 question multiple choice exam emphasizing reading, writing, and math. The test is computerized, however alternative plans were made for those who prefer paper and pencil tests.

Step 5- Encouraging the heart: Mandatory change has created an opportunity to celebrate the accomplishments of the newly credentialed, highly qualified paraprofessionals.

VII. Parental Notification

Title 1 Section 1118. PARENTAL INVOLVEMENT.

(a) LOCAL EDUCATIONAL AGENCY POLICY-

(1) IN GENERAL- A local educational agency may receive funds under this part only if such agency implements programs, activities, and procedures for the involvement of parents in programs assisted under this part consistent with this section. Such programs, activities, and procedures shall be planned and implemented with meaningful consultation with parents of participating children.

(2) WRITTEN POLICY- Each local educational agency that receives funds under this part shall develop jointly with, agree on with, and distribute to, parents of participating children a written parent involvement policy. The policy shall be incorporated into the local educational agency's plan developed under section 1112, establish the agency's expectations for parent involvement, and describe how the agency will —

(A) involve parents in the joint development of the plan under section 1112, and the process of school review and improvement under section 1116;

(B) provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement activities to improve student academic achievement and school performance;

(C) build the schools' and parents' capacity for strong parental involvement as described in subsection (e);

(D) coordinate and integrate parental involvement strategies under this part with parental involvement strategies under other programs, such as the Head Start program, Reading First program, Early Reading First program, Even Start program, Parents as Teachers program, and Home Instruction Program for Preschool Youngsters, and State-run preschool programs;

(E) conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the parental involvement policy in improving the academic quality of the schools served under this part, including identifying barriers to greater participation by parents in activities authorized by this section (with particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background), and use the findings of such evaluation to design strategies for more effective parental involvement, and to revise, if necessary, the parental involvement policies described in this section; and

(F) involve parents in the activities of the schools served under this part.

(3) RESERVATION-

(A) IN GENERAL- Each local educational agency shall reserve not less than 1 percent of such agency's allocation under subpart 2 of this part to carry out this section, including promoting family literacy and parenting skills, except that this paragraph shall not apply if 1 percent of such agency's allocation under subpart 2 of this part for the fiscal year for which the determination is made is \$5,000 or less.

(B) PARENTAL INPUT- Parents of children receiving services under this part shall be involved in the decisions regarding how funds reserved under subparagraph (A) are allotted for parental involvement activities.

(C) DISTRIBUTION OF FUNDS- Not less than 95 percent of the funds reserved under subparagraph (A) shall be distributed to schools served under this part.

(b) SCHOOL PARENTAL INVOLVEMENT POLICY-

(1) IN GENERAL- Each school served under this part shall jointly develop with, and distribute to, parents of participating children a written parental involvement policy, agreed on by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f). Parents shall be notified of the policy in an understandable and uniform format and, to the extent practicable, provided in a language the parents can understand. Such policy shall be made available to the local community and updated periodically to meet the changing needs of parents and the school.

(2) SPECIAL RULE- If the school has a parental involvement policy that applies to all parents, such school may amend that policy, if necessary, to meet the requirements of this subsection.

(3) AMENDMENT- If the local educational agency involved has a school district-level parental involvement policy that applies to all parents, such agency may amend that policy, if necessary, to meet the requirements of this subsection.

(4) PARENTAL COMMENTS- If the plan under section 1112 is not satisfactory to the parents of participating children, the local educational agency shall submit any parent comments with such plan when such local educational agency submits the plan to the State.

(c) POLICY INVOLVEMENT- Each school served under this part shall —

(1) convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under this part and to explain the requirements of this part, and the right of the parents to be involved;

(2) offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under this part, transportation, child care, or home visits, as such services relate to parental involvement;

(3) involve parents, in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under this part, including the planning, review, and improvement of the school parental involvement policy and the joint development of the schoolwide program plan under section 1114(b)(2), except that if a school has in place a process for involving parents in the joint planning and design of the school's programs, the school may use that process, if such process includes an adequate representation of parents of participating children;

(4) provide parents of participating children —

(A) timely information about programs under this part;

(B) a description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the proficiency levels students are expected to meet; and

(C) if requested by parents, opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions relating to the education of their children, and respond to any such suggestions as soon as practicably possible; and

(5) if the school-wide program plan under section 1114(b)(2) is not satisfactory to the parents of participating children, submit any parent comments on the plan when the school makes the plan available to the local educational agency.

(d) SHARED RESPONSIBILITIES FOR HIGH STUDENT ACADEMIC ACHIEVEMENT- As a component of the school-level parental involvement policy developed under subsection (b), each school served under this part shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student academic achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high standards. Such compact shall —

(1) describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under this part to meet the State's student academic achievement standards, and the ways in which each parent will be responsible for supporting their children's learning, such as monitoring attendance, homework completion, and television watching; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time; and

(2) address the importance of communication between teachers and parents on an ongoing basis through, at a minimum —

(A) parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement;

(B) frequent reports to parents on their children's progress; and

(C) reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities.

(e) BUILDING CAPACITY FOR INVOLVEMENT- To ensure effective involvement of parents and to support a partnership among the school involved, parents, and the community to improve student academic achievement, each school and local educational agency assisted under this part —

(1) shall provide assistance to parents of children served by the school or local educational agency, as appropriate, in understanding such topics as the State's academic content standards and State student academic achievement standards, State and local academic assessments, the requirements of this part, and how to monitor a child's progress and work with educators to improve the achievement of their children;

(2) shall provide materials and training to help parents to work with their children to improve their children's achievement, such as literacy training and using technology, as appropriate, to foster parental involvement;

(3) shall educate teachers, pupil services personnel, principals, and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between parents and the school;

(4) shall, to the extent feasible and appropriate, coordinate and integrate parent involvement programs and activities with Head Start, Reading First, Early Reading First, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool and other programs, and conduct other activities, such as parent resource centers, that encourage and support parents in more fully participating in the education of their children;

(5) shall ensure that information related to school and parent programs, meetings, and other activities is sent to the parents of participating children in a format and, to the extent practicable, in a language the parents can understand;

(6) may involve parents in the development of training for teachers, principals, and other educators to improve the effectiveness of such training;

(7) may provide necessary literacy training from funds received under this part if the local educational agency has exhausted all other reasonably available sources of funding for such training;

(8) may pay reasonable and necessary expenses associated with local parental involvement activities, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions;

(9) may train parents to enhance the involvement of other parents;

(10) may arrange school meetings at a variety of times, or conduct in-home conferences between teachers or other educators, who work directly with participating children, with parents who are unable to attend such conferences at school, in order to maximize parental involvement and participation;

(11) may adopt and implement model approaches to improving parental involvement;

(12) may establish a district-wide parent advisory council to provide advice on all matters related to parental involvement in programs supported under this section;

(13) may develop appropriate roles for community-based organizations and businesses in parent involvement activities; and

(14) shall provide such other reasonable support for parental involvement activities under this section as parents may request.

(f) ACCESSIBILITY- In carrying out the parental involvement requirements of this part, local educational agencies and schools, to the extent practicable, shall provide full opportunities for the participation of parents with limited English proficiency, parents with disabilities, and parents of migratory children, including providing information and school reports required under section 1111 in a format and, to the extent practicable, in a language such parents understand.

(g) INFORMATION FROM PARENTAL INFORMATION AND RESOURCE CENTERS- In a State where a parental information and resource center is established to provide training, information, and support to parents and individuals who work with local parents, local educational agencies, and schools receiving assistance under this part, each local educational agency or school that receives assistance under this part and is located in the State shall assist parents and parental organizations by informing such parents and organizations of the existence and purpose of such centers.

(h) REVIEW- The State educational agency shall review the local educational agency's parental involvement policies and practices to determine if the policies and practices meet the requirements of this section.

Title 1 Section 1111(h)(6) PARENTS RIGHT-TO-KNOW-

(A) QUALIFICATIONS- At the beginning of each school year, a local educational agency that receives funds under this part shall notify the parents of each student attending any school receiving funds under this part that the parents may request, and the agency will provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

(i) Whether the teacher has met State qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.

(ii) Whether the teacher is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived.

(iii) The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.

(iv) Whether the child is provided services by paraprofessionals and, if so, their qualifications.

(B) ADDITIONAL INFORMATION- In addition to the information that parents may request under subparagraph (A), a school that receives funds under this part shall provide to each individual parent—

- (i) information on the level of achievement of the parent's child in each of the State academic assessments as required under this part; and
 - (ii) timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who is not highly qualified.
- (C) FORMAT-** The notice and information provided to parents under this paragraph shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

Title 1 Section 1112(g)(1)(2)

PARENTAL NOTIFICATION-

(1) IN GENERAL-

(A) NOTICE- Each local educational agency using funds under this part to provide a language instruction or educational program as determined in part C of Title III shall, not later than 30 days after the beginning of the school year, inform a parent or parents of a limited English proficient child identified for participation or participating in, such a program of—

- (i) the reasons for the identification of their child as limited English proficient and in need of placement in a language instruction educational program;
 - (ii) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;
 - (iii) the methods of instruction used in the program in which their child is, or will be participating, and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction;
 - (iv) how the program in which their child is, or will be participating, will meet the educational strengths and needs of their child;
 - (v) how such program will specifically help their child learn English, and meet age-appropriate academic achievement standards for grade promotion and graduation;
 - (vi) the specific exit requirements for the program, including the expected rate of transition from such program into classrooms that are not tailored for limited English proficient children, and the expected rate of graduation from secondary school for such program if funds under this part are used for children in secondary schools;
 - (vii) in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child;
 - (viii) information pertaining to parental rights that includes written guidance —
- (1) detailing —
 - (aa) the right that parents have to have their child immediately removed from such program upon their request; and
 - (bb) the options that parents have to decline to enroll their child in such program or to choose another program or method of instruction, if available; and
 - (II) assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.

(B) SEPARATE NOTIFICATION- In addition to providing the information required to be provided under paragraph (1), each eligible entity that is using funds provided under this part to provide a language instruction educational program, and that has failed to make progress on the annual measurable achievement objectives described in section 3122 for any fiscal year for which part A is in effect, shall separately inform a parent or the parents of a child identified for participation in such program, or participating in such program, of such failure not later than 30 days after such failure occurs.

(2) NOTICE- The notice and information provided in paragraph (1) to a parent or parents of a child identified for participation in a language instruction educational program for limited English proficient children shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

Title 1 Section 1116(b)(6)

NOTICE TO PARENTS- A local educational agency shall promptly provide to a parent or parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of each student enrolled in an elementary school or a secondary school identified for school

improvement under paragraph (1), for corrective action under paragraph (7), or for restructuring under paragraph (8) —

(A) an explanation of what the identification means, and how the school compares in terms of academic achievement to other elementary schools or secondary schools served by the local educational agency and the State educational agency involved;

(B) the reasons for the identification;

(C) an explanation of what the school identified for school improvement is doing to address the problem of low achievement;

(D) an explanation of what the local educational agency or State educational agency is doing to help the school address the achievement problem;

(E) an explanation of how the parents can become involved in addressing the academic issues that caused the school to be identified for school improvement; and

(F) an explanation of the parents' option to transfer their child to another public school under paragraphs (1)(E), (5)(A), (7)(C)(i), (8)(A)(i), and subsection (c)(10)(C)(vii) (with transportation provided by the agency when required by paragraph (9)) or to obtain supplemental educational services for the child, in accordance with subsection (e).

Policy Implications:

In no other section of the enacted legislation is there a more pressing need for clarity than those involving parental notification. Due to the multiple "touch points" indicated, it is critical that state policy set guidelines for frequency and content of said notice. A review of the legislation suggests seven distinct issues that require parental notification.

1. Parent Involvement Policy

This notification describes the manner in which the parent may be involved in improving student achievement. A minimum of one annual meeting must be documented, with an unspecified number of flexible meetings throughout the year. An annual evaluation of both the content of the involvement activities and its effectiveness is required.

2. Assessment Result

Notification to the parent is required following release of annual student testing.

3. Teaching by Non-qualified Instructor

Timely notice that a child has been receiving instruction by an individual not meeting the requirements of a fully qualified teacher for four (4) or more consecutive weeks.

4. In Need of Improvement Status

Parent notification must be provided in a timely manner if a school is identified as "*In Need of Improvement*". Said notification must include:

- What does it mean to be *In Need of Improvement*
- What are the reasons for this status
- What is being done by the school, the LEA, and the State to change the status
- How the parents can become involved
- A statement as to how the parents can access option to transfer or supplemental services

5. Qualified Teacher Status

At the beginning of each school year, the school shall provide teacher licensing status information on all personnel. This shall include licensure status for grade level and subjects of all teachers. Any individuals teaching under emergency or other provisional status must be identified. In addition, the degree status of each teacher must be identified.

Within this section, the qualification status of all paraprofessionals working with students must be identified.

This notification will be subject to state privacy laws regarding information that can be released about teachers. It is important to consult the current privacy law before setting out requirements. In addition, in order for local districts to handle the possible legal implications of this notification, a decision should be made of how the transparency in teacher qualifications should be accomplished. Districts can choose between assigning one person for the whole district to be the point person or publishing the information on every single teacher. Either way, the policy should be consistent.

6. Limited English Proficiency Notice

No later than 30 days after the start of the school year, parents of students placed in classes designated specifically to enhance English language skills shall be notified. This notification shall include:

- The reason for the identification as Limited English Proficient (LEP)
- How this limitation was assessed
- What method of instruction shall be used to improve the issue
- How this instruction will assist the student
- A delineation of the exit requirements from the program
- A statement of the parent right to remove the child
- Options open to the parent

7. Student achievement

Under this requirement, each school must develop a school-parent compact describing how the parents, the school staff, and the students share responsibility for student achievement. This shall be provided to parents on an annual basis.

8. Military Recruiters

Within this new provision, military and all higher education recruiters, must be given access to the names, addresses and phone numbers of secondary school students. Parents must be notified at the beginning of the school year if they would like to "opt out" their child's name from the list that is shared.

Please note that in all of the informed consent procedures mandate notification in the parental language. Policy considerations would suggest that each school may be required to maintain a listing of all languages spoken in student homes, with an identified individual that would serve to work in a translation capacity.

District Implementation:

It will be important for all districts to develop a system to keep track of all the new parental notifications and their required follow-up. By setting a standardized system early in the process, it will make the complication of providing varying levels of notification easier.

The most popular time of year for parental notification is the beginning of the school year, or back to school night. In order to make these notifications more effective, it would be best for someone to walk parents through each new requirement, so they are not lumped in with all of the other forms that must be signed. It is expected that, after offering these notifications for a year or more, it will become a part of the school district's seamless process at the opening of the school year.

Most of all districts will want to handle these notifications in a responsible manner. Sending home a notification that a student is being taught by a "non-qualified" teacher for 4 or more weeks could have serious repercussions in the community. The importance of community - district communication during this period is critical in maintaining relationships.

VIII. Highly Qualified Teachers

SEC. 1119. QUALIFICATIONS FOR TEACHERS AND PARAPROFESSIONALS.

(a) TEACHER QUALIFICATIONS AND MEASURABLE OBJECTIVES-

(1) **IN GENERAL-** Beginning with the first day of the first school year after the date of enactment of the No Child Left Behind Act of 2001, each local educational agency receiving assistance under this part shall ensure that all teachers hired after such day and teaching in a program supported with funds under this part are highly qualified.

(2) **STATE PLAN-** As part of the plan described in section 1111, each State educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching in core academic subjects within the State are highly qualified not later than the end of the 2005-2006 school year. Such plan shall establish annual measurable objectives for each local educational agency and school that, at a minimum —

(A) shall include an annual increase in the percentage of highly qualified teachers at each local educational agency and school, to ensure that all teachers teaching in core academic subjects in each public elementary school and secondary school are highly qualified not later than the end of the 2005-2006 school year;

(B) shall include an annual increase in the percentage of teachers who are receiving high-quality professional development to enable such teachers to become highly qualified and successful classroom teachers; and

(C) may include such other measures as the State educational agency determines to be appropriate to increase teacher qualifications.

(3) **LOCAL PLAN-** As part of the plan described in section 1112, each local educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching within the school district served by the local educational agency are highly qualified not later than the end of the 2005-2006 school year.

(b) REPORTS-

(1) ANNUAL STATE AND LOCAL REPORTS-

(A) **LOCAL REPORTS-** Each State educational agency described in subsection (a)(2) shall require each local educational agency receiving funds under this part to publicly report, each year, beginning with the 2002-2003 school year, the annual progress of the local educational agency as a whole and of each of the schools served by the agency, in meeting the measurable objectives described in subsection (a)(2).

(B) **STATE REPORTS-** Each State educational agency receiving assistance under this part shall prepare and submit each year, beginning with the 2002-2003 school year, a report to the Secretary, describing the State educational agency's progress in meeting the measurable objectives described in subsection (a)(2).

(C) **INFORMATION FROM OTHER REPORTS-** A State educational agency or local educational agency may submit information from the reports described in section 1111(h) for the purposes of this subsection, if such report is modified, as may be necessary, to contain the information required by this subsection, and may submit such information as a part of the reports required under section 1111(h).

Title 9 Section 9101 HIGHLY QUALIFIED-

The term 'highly qualified' —

(A) when used with respect to any public elementary school or secondary school teacher teaching in a State, means that —

(i) the teacher has obtained full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing examination, and holds a license to teach in such State, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law; and

(ii) the teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis;

(B) when used with respect to —

(i) an elementary school teacher who is new to the profession, means that the teacher —

(I) holds at least a bachelor's degree; and
 (II) has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum); or
 (ii) a middle or secondary school teacher who is new to the profession, means that the teacher holds at least a bachelor's degree and has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by —
 (I) passing a rigorous State academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on a State-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); or
 (II) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing; and
 (C) when used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, means that the teacher holds at least a bachelor's degree and —
 (i) has met the applicable standard in clause (i) or (ii) of subparagraph (B), which includes an option for a test; or
 (ii) demonstrates competence in all the academic subjects in which the teacher teaches based on a high objective uniform State standard of evaluation that —
 (I) is set by the State for both grade appropriate academic subject matter knowledge and teaching skills;
 (II) is aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;
 (III) provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;
 (IV) is applied uniformly to all teachers in the same academic subject and the same grade level throughout the State;
 (V) takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject;
 (VI) is made available to the public upon request; and
 (VII) may involve multiple, objective measures of teacher competency.

Policy Implications:

Highly qualified teachers must be fully state certified and —

1. For newly hired elementary school teachers, have a BA degree and have demonstrated subject knowledge and teaching skills (by passing a rigorous state test) in reading, writing, mathematics, and other areas of elementary curriculum;
2. For newly hired middle or secondary school teachers, have a BA degree and demonstrate high level competency in each subject area taught (by passing a rigorous state academic subject test), or completion of an academic major, graduate degree, or advanced certification in the subject area(s) taught;
3. For existing elementary and secondary school teachers, have a BA degree and meet same criteria as above or demonstrated competency based on a high, objective, and uniform standard of evaluation developed by the state.

It is apparent that policy must be set to ensure the above as standards for the teachers within each State. In addition, the State and Local Plan and the State and Local Reports should be established by policy as to the content and timeliness of their submission.

It should be noted that Title II "Preparing, Training, and Recruiting High Quality Teachers and Principles" Part A, Section 2123 (a)(7) specifically endorses the hiring of teachers becoming

highly qualified through State and Local alternative routes to certification. States are thus encouraged to erect alternative routes as a function of policy to enable non-traditional approaches to becoming highly qualified. It is important to note that local funds are specifically noted in support of employing individuals enjoying alternative certification.

District Implementation:

The goal of having every teacher "highly qualified" by the 2005 – 2006 school year is an important goal that emphasizes the connection between the teacher and student success. However, this can be one of the most problematic requirements for rural districts to reach. The most important issue confronting rural instructors is the popularity of multiple subject instruction in rural areas. It is not a unique situation to have the high school math teacher also be the science teacher. This raises complications when it comes to meeting the bachelor's degree requirements. Many rural teachers are currently teaching in their major and minor subject areas and beyond. However, according to the new requirements, teachers will have to take the subject area assessment in any area of instruction that is not their major.

This raises two issues for rural districts: recruitment and retention. In the area of recruitment, districts are going to have to overcome the negative aspects of multiple subject teachers meeting the new requirements in creative ways. Knowing that multiple subject teaching is prevalent in rural America, new rural teachers will most likely be subject to a battery of subject area assessments. This can serve as a disincentive for teaching in a rural district. There is very little possibility that rural districts will be able to offer competitive teacher salaries like their larger rural and suburban counterparts. Instead, districts are going to have to devise other incentives. One example of such is providing reduced cost housing in order to compete.

The area of retention can also raise anxiety levels of rural administrators. There are increasing numbers of teachers talking of retiring before the 2005-2006 deadline in order to avoid the stress and possible humiliation of a subject area assessment. Local administrators will have to again find creative ways to get teachers to stay. Perhaps developing a collaborative agreement with a nearby community college or university to encourage the teachers to take the courses required to meet the new requirements, would help this situation.

There is still some outstanding discussion at the federal level as to how this provision will relate to special education and vocational teachers. This complication was raised in the final regulations on Title II, Part A. In the case of special education, will resource room teachers be required to be certified in special education and each of the subject areas they instruct, including math, reading, science and social studies? How does the highly qualified provision affect career and technical education instructors. Will career and technical teachers be exempted from the bachelor's degree requirement? A bachelor's degree, generally, is not a good measure of achievement in all career and technical education. The U.S. Department of Education has made an initial ruling that if career and technical teachers teach their trade using a core academic subject area, they must be highly qualified in that area. For example, someone using applied mathematics to teach computer assisted drawing should be highly qualified in math. These particular issues are still in discussion with the US Department of Education and will most likely be settled during the reauthorization of the Individuals with Disabilities in Education Act (IDEA) and the Perkins Career and Technical Education Act, both scheduled for reauthorization in the 108th Congress (1/03 – 12/04).

IX. School – District Report Cards

Title I Section 1111(h)(2)

ANNUAL LOCAL EDUCATIONAL AGENCY REPORT CARDS-

(A) REPORT CARDS-

(i) IN GENERAL- Not later than the beginning of the 2002-2003 school year, a local educational agency that receives assistance under this part shall prepare and disseminate an annual local educational agency report card, except that the State educational agency may provide the local educational agency 1 additional year if the local educational agency demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency, prevented full implementation of this paragraph by that deadline and that the local educational agency will complete implementation within the additional 1-year period.

(ii) SPECIAL RULE- If a State educational agency has received an extension pursuant to subsection (c)(1), then a local educational agency within that State shall not be required to include the information required under paragraph (1)(C) in such report card during such extension.

(B) MINIMUM REQUIREMENTS- The State educational agency shall ensure that each local educational agency collects appropriate data and includes in the local educational agency's annual report the information described in paragraph (1)(C) as applied to the local educational agency and each school served by the local educational agency, and—

(i) in the case of a local educational agency—

(I) the number and percentage of schools identified for school improvement under section 1116(c) and how long the schools have been so identified; and

(II) information that shows how students served by the local educational agency achieved on the statewide academic assessment compared to students in the State as a whole; and

(ii) in the case of a school—

(I) whether the school has been identified for school improvement; and

(II) information that shows how the school's students achievement on the statewide academic assessments and other indicators of adequate yearly progress compared to students in the local educational agency and the State as a whole.

(C) OTHER INFORMATION- A local educational agency may include in its annual local educational agency report card any other appropriate information, whether or not such information is included in the annual State report card.

(D) DATA- A local educational agency or school shall only include in its annual local educational agency report card data that are sufficient to yield statistically reliable information, as determined by the State, and that do not reveal personally identifiable information about an individual student.

Policy Implications:

Annual State Report Card

Beginning with the 2002-2003 school year, each state shall prepare and distribute an annual state report card. The report card shall be concise and presented in an understandable and uniform format.

Required Information. Each state shall include in its report card:

- Information on aggregate student achievement at each proficiency level disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged
- A comparison of actual achievement levels for each group with the annual objectives for each group
- The percentage of students not tested (disaggregated by the same categories)

- The most recent 2-year trend in student achievement in each subject area and for each grade level (only for the subjects assessed under this Act)
- Aggregate information on other indicators used to determine adequate yearly progress;
- Graduation rates
- Performance of local school districts regarding making adequate yearly progress, including names of schools identified as needing improvement
- Professional qualifications of teachers, percentage of classes not taught by highly qualified teachers, disaggregated by high poverty and low poverty schools (top quartile and bottom quartile)

Optional Information. A state may include additional information to best provide parents and the public with information on the progress of public schools, such as:

- School attendance rates
- Average class size in each grade
- Gains in English proficiency for LEP students
- Incidence of violence, substance abuse, suspensions, and expulsions
- Extent and type of parental involvement
- Percentage of students completing advanced placement courses and passing advanced tests
- Clear and concise description of the state's accountability system

Annual Local Report Card

Each local educational agency receiving assistance under the Act must prepare and distribute an annual report card beginning with the 2002-2003 school year.

Required Information. In addition to the data in the state report card that is appropriate to and aggregated from local assessment data and is required in the local report card, the state must ensure that the local agency report card include:

For the Local Educational Agency --

- The number and percentage of schools identified as needing improvement
- How students of the local agency achieved on the statewide academic assessments compared to the state as a whole

For each School --

- Whether the school has been identified for school improvement
- How the school's students achieved on statewide assessments compared to students in the local education agency and the state as a whole

Small School Waiver:

A LEA or a school may only include information on their report card that is sufficient to provide statistically reliable information and does not individually identify students (see section on AYP).

District Implementation:

The most important language of this section for rural districts is the portion that requires the information to be statistically reliable before being placed the school or district report card. Along the same lines, the data presented may also not individually identify any student with respect to the Family Education Rights and Privacy Act (FERPA). This will present complications when looking at individual rural school report cards and disaggregation. Many small rural schools will only be able to report one number for state assessments that are aggregated across grade levels. Others may not even be able to have a school report card and may have to leave all reporting to the district level. Either way, it is important to keep your community aware of these complications.

It is very likely when local newspapers start printing school report cards, that the report cards of rural schools and districts will look very different than the report cards of surrounding schools and districts. Small rural districts will likely be able to report less information. If your community is informed before the publication of the report cards, it should not be a surprise to them. However, if they see the difference for the first time when looking at all the different report cards, there is a possibility of a public relations dilemma for the district.

Mostly, local administrators should work with their States to ensure that they are still providing the necessary information for the States to comply with their report card requirements.

X. Private School Provisions

Title 1 Section 1120.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

(a) GENERAL REQUIREMENT-

(1) IN GENERAL- To the extent consistent with the number of eligible children identified under section 1115(b) in the school district served by a local educational agency who are enrolled in private elementary schools and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs, and shall ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to sections 1118 and 1119.

(2) SECULAR, NEUTRAL, NONIDEOLOGICAL- Such educational services or other benefits, including materials and equipment, shall be secular, neutral, and nonideological.

(3) EQUITY- Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part, and shall be provided in a timely manner.

(4) EXPENDITURES- Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools, which the local educational agency may determine each year or every 2 years.

(5) PROVISION OF SERVICES- The local educational agency may provide services under this section directly or through contracts with public and private agencies, organizations, and institutions.

(b) CONSULTATION-

(1) IN GENERAL- To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency's programs under this part, on issues such as --

(A) how the children's needs will be identified;

(B) what services will be offered;

(C) how, where, and by whom the services will be provided;

(D) how the services will be academically assessed and how the results of that assessment will be used to improve those services;

(E) the size and scope of the equitable services to be provided to the eligible private school children, and the proportion of funds that is allocated under subsection (a)(4) for such services;

(F) the method or sources of data that are used under subsection (c) and section 1113(c)(1) to determine the number of children from low-income families in participating school attendance areas who attend private schools;

(G) how and when the agency will make decisions about the delivery of services to such children, including a thorough consideration and analysis of the views of the private school officials on the provision of services through a contract with potential third-party providers; and

(H) how, if the agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency will provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor.

(2) TIMING- Such consultation shall include meetings of agency and private school officials and shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part. Such meetings shall continue throughout implementation and assessment of services provided under this section.

(3) DISCUSSION- Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

(4) DOCUMENTATION- Each local educational agency shall maintain in the agency's records and provide to the State educational agency involved a written affirmation signed by officials of each participating private school that the consultation required by this section has occurred. If such officials do

not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has taken place to the State educational agency.

(5) COMPLIANCE-

(A) IN GENERAL- A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.

(B) PROCEDURE- If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.

(c) ALLOCATION FOR EQUITABLE SERVICE TO PRIVATE SCHOOL STUDENTS-

(1) CALCULATION- A local educational agency shall have the final authority, consistent with this section, to calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools by —

(A) using the same measure of low income used to count public school children;

(B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;

(C) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area; or

(D) using an equated measure of low income correlated with the measure of low income used to count public school children.

(2) COMPLAINT PROCESS- Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 9505.

Title I Section 9501

(a) PRIVATE SCHOOL PARTICIPATION-

(1) IN GENERAL- Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program.

(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS- Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

(3) SPECIAL RULE- Educational services and other benefits provided under this section for private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.

(4) EXPENDITURES- Expenditures for educational services and other benefits provided under this section for eligible private school children, their teachers, and other educational personnel serving those children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

(5) PROVISION OF SERVICES- An agency, consortium, or entity described in subsection (a)(1) of this section may provide those services directly or through contracts with public and private agencies, organizations, and institutions.

(b) APPLICABILITY-

(1) IN GENERAL- This section applies to programs under —

(A) subparts 1 and 3 of part B of title I;

(B) part C of title I;

(C) part A of title II, to the extent provided in paragraph (3);

(D) part B of title II;

(E) part D of title II;

(F) part A of title III;
(G) part A of title IV; and
(H) part B of title IV.

(2) **DEFINITION-** For the purpose of this section, the term eligible children' means children eligible for services under a program described in paragraph (1).

(3) **APPLICATION-** (A) Except as provided in subparagraph (B), this subpart, including subsection (a)(4), applies to funds awarded to a local educational agency under part A of title II only to the extent that the local educational agency uses funds under that part to provide professional development to teachers and others.

(B) Subject to subparagraph (A), the share of the local educational agency's subgrant under part A of title II that is used for professional development and subject to a determination of equitable expenditures under subsection (a)(4) shall not be less than the aggregate share of that agency's awards that were used for professional development for fiscal year 2001 under section 2203(1)(B) (as such section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001) and section 306 of the Department of Education Appropriations Act, 2001.

(c) **CONSULTATION-**

(1) **IN GENERAL-** To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as —

(A) how the children's needs will be identified;

(B) what services will be offered;

(C) how, where, and by whom the services will be provided;

(D) how the services will be assessed and how the results of the assessment will be used to improve those services;

(E) the size and scope of the equitable services to be provided to the eligible private school children,

teachers, and other educational personnel and the amount of funds available for those services; and

(F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers.

(2) **DISAGREEMENT-** If the agency, consortium, or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide to the private school officials a written explanation of the reasons why the local educational agency has chosen not to use a contractor.

(3) **TIMING-** The consultation required by paragraph (1) shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

(4) **DISCUSSION REQUIRED-** The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

(d) **PUBLIC CONTROL OF FUNDS-**

(1) **IN GENERAL-** The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.

(2) **PROVISION OF SERVICES-**

(A) **IN GENERAL-** The provision of services under this section shall be provided —

(i) by employees of a public agency; or

(ii) through contract by the public agency with an individual, association, agency, organization, or other entity.

(B) **INDEPENDENCE; PUBLIC AGENCY-** In the provision of those services, the employee, person, association, agency, organization, or other entity shall be independent of the private school and of any religious organization, and the employment or contract shall be under the control and supervision of the public agency.

(C) **COMMINGLING OF FUNDS PROHIBITED-** Funds used to provide services under this section shall not be commingled with non-Federal funds.

Policy Implications:

Under this section, the issues for rural education revolve around the concepts of

1. *Secular, neutral, non-ideological*

Private schools so supported shall meet the requirements of this section

2. *Equity*

Services provided to students in private schools must be equitable in comparison to the services/benefits provided to public school students

3. *Equal Funding*

An equal proportion of funds must be allocated to schools based on the number of children from low income families. This number is to be determined every two years.

4. *Documentation*

The LEA must provide to the state signed documentation of consultation efforts with private schools.

It is considered important that the State and Local Education Agencies recognize these implications specifically within the legislation authorizing private schools and recognizing the interface between these schools and the public school system.

District Implementation:

While private school participation in Title I is not a new element, NCLB adds additional requirements in the area of the consultation and the new requirement of the written record of the consultation that must be signed and agreed to by all involved parties.

Once the required consultation occurs with private school providers, local districts must work to ensure that there is an equal expenditure on eligible private schools. In essence, equal services must be provided to eligible private school students.

It is also important to remember that private school teachers who instruct Title I children are allowed to participate in any Title I funded professional development by the public school district.

XI. Professional Development

Title I Section 1119(h)

USE OF FUNDS- A local educational agency receiving funds under this part may use such funds to support ongoing training and professional development to assist teachers and paraprofessionals in satisfying the requirements of this section.

(i) VERIFICATION OF COMPLIANCE-

(1) IN GENERAL- In verifying compliance with this section, each local educational agency, at a minimum, shall require that the principal of each school operating a program under section 1114 or 1115 attest annually in writing as to whether such school is in compliance with the requirements of this section.

(2) AVAILABILITY OF INFORMATION- Copies of attestations under paragraph (1) —

(A) shall be maintained at each school operating a program under section 1114 or 1115 and at the main office of the local educational agency; and

(B) shall be available to any member of the general public on request.

(j) COMBINATIONS OF FUNDS- Funds provided under this part that are used for professional development purposes may be combined with funds provided under title II of this Act, other Acts, and other sources.

(k) SPECIAL RULE- Except as provided in subsection (l), no State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities under this part, except that this paragraph shall not apply with respect to requirements under section 1116(c)(3).

(l) MINIMUM EXPENDITURES- Each local educational agency that receives funds under this part shall use not less than 5 percent, or more than 10 percent, of such funds for each of fiscal years 2002 and 2003, and not less than 5 percent of the funds for each subsequent fiscal year, for professional development activities to ensure that teachers who are not highly qualified become highly qualified not later than the end of the 2005-2006 school year.

Policy Implications:

The State and Local School District should set procedures and timelines for an annual written report, by the principal, attesting to the use of funds in professional development for both teachers and paraprofessionals.

District Implementation:

Another new requirement for local districts with in their Title I expenditures is that 5 percent of their Title I dollars must be spent on professional development activities. If a school within the district goes into *In Need Of Improvement* status that percentage rises up to 10 percent. These professional development activities should echo the emphasis in Title I on the reading and math state assessments. A good use of this set aside would be to train teachers to use the new data, such as item analysis and test scores, to infer improvements in instruction. This will ensure that the new assessment requirements will work to improve student achievement in the district.

Again, it is important to recognize that 5 to 10 percent of a rural district's Title I allocation may not add up to much, but it is important to get the most improvement for your money.

XII. Rural Education Achievement Program

Title VI Subpart One – Small, Rural School Achievement Program

Title VI Section 6211 USE OF APPLICABLE FUNDING.

(a) ALTERNATIVE USES-

(1) IN GENERAL- Notwithstanding any other provision of law, an eligible local educational agency may use the applicable funding that the agency is eligible to receive from the State educational agency for a fiscal year to carry out local activities authorized under any of the following provisions:

(A) Part A of title I.

(B) Part A or D of title II.

(C) Title III.

(D) Part A or B of title IV.

(E) Part A of title V.

(2) NOTIFICATION- An eligible local educational agency shall notify the State educational agency of the local educational agency's intention to use the applicable funding in accordance with paragraph (1), by a date that is established by the State educational agency for the notification.

(b) ELIGIBILITY-

(1) IN GENERAL- A local educational agency shall be eligible to use the applicable funding in accordance with subsection (a) if—

(A)(i)(I) the total number of students in average daily attendance at all of the schools served by the local educational agency is fewer than 600; or

(II) each county in which a school served by the local educational agency is located has a total population density of fewer than 10 persons per square mile; and

(ii) all of the schools served by the local educational agency are designated with a school locale code of 7 or 8, as determined by the Secretary; or

(B) the agency meets the criteria established in subparagraph (A)(i) and the Secretary, in accordance with paragraph (2), grants the local educational agency's request to waive the criteria described in subparagraph (A)(ii).

(2) CERTIFICATION- The Secretary shall determine whether to waive the criteria described in paragraph (1)(A)(ii) based on a demonstration by the local educational agency, and concurrence by the State educational agency, that the local educational agency is located in an area defined as rural by a governmental agency of the State.

(c) APPLICABLE FUNDING DEFINED- In this section, the term applicable funding' means funds provided under any of the following provisions:

(1) Subpart 2 and section 2412(a)(2)(A) of title II.

(2) Section 4114.

(3) Part A of title V.

(d) DISBURSEMENT- Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative uses under this section for the fiscal year at the same time as the State educational agency disburses the applicable funding to local educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

(e) APPLICABLE RULES- Applicable funding under this section shall be available to carry out local activities authorized under subsection (a).

Title VI Section 6212

GRANT PROGRAM AUTHORIZED.

(a) IN GENERAL- The Secretary is authorized to award grants to eligible local educational agencies to enable the local educational agencies to carry out activities authorized under any of the following provisions:

(1) Part A of title I.

(2) Part A or D of title II.

(3) Title III.

(4) Part A or B of title IV.

(5) Part A of title V.

(b) ALLOCATION-

(1) **IN GENERAL-** Except as provided in paragraph (3), the Secretary shall award a grant under subsection (a) to a local educational agency eligible under section 6211(b) for a fiscal year in an amount equal to the initial amount determined under paragraph (2) for the fiscal year minus the total amount received by the agency under the provisions of law described in section 6211(c) for the preceding fiscal year.

(2) **DETERMINATION OF INITIAL AMOUNT-** The initial amount referred to in paragraph (1) is equal to \$100 multiplied by the total number of students in excess of 50 students, in average daily attendance at the schools served by the local educational agency, plus \$20,000, except that the initial amount may not exceed \$60,000.

(3) **RATABLE ADJUSTMENT-**

(A) **IN GENERAL-** If the amount made available to carry out this section for any fiscal year is not sufficient to pay in full the amounts that local educational agencies are eligible to receive under paragraph (1) for such year, the Secretary shall ratably reduce such amounts for such year.

(B) **ADDITIONAL AMOUNTS-** If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

(C) **DISBURSEMENT-** The Secretary shall disburse the funds awarded to a local educational agency under this section for a fiscal year not later than July 1 of that fiscal year.

(d) **SPECIAL ELIGIBILITY RULE-** A local educational agency that is eligible to receive a grant under this subpart for a fiscal year is not eligible to receive funds for such fiscal year under subpart 2.

Title VI Section 6213. ACCOUNTABILITY.

(a) **ACADEMIC ACHIEVEMENT ASSESSMENT-** Each local educational agency that uses or receives funds under this subpart for a fiscal year shall administer an assessment that is consistent with section 1111(b)(3).

(b) **DETERMINATION REGARDING CONTINUING PARTICIPATION-** Each State educational agency that receives funding under the provisions of law described in section 6211(c) shall—

(1) after the third year that a local educational agency in the State participates in a program under this subpart and on the basis of the results of the assessments described in subsection (a), determine whether the local educational agency participating in the program made adequate yearly progress, as described in section 1111(b)(2);

(2) permit only those local educational agencies that participated and made adequate yearly progress, as described in section 1111(b)(2), to continue to participate; and

(3) permit those local educational agencies that participated and failed to make adequate yearly progress, as described in section 1111(b)(2), to continue to participate only if such local educational agencies use applicable funding under this subpart to carry out the requirements of section 1116.

Title VI Subpart 2—Rural and Low-Income School Program

Title VI Section 6221. PROGRAM AUTHORIZED.

(a) **GRANTS TO STATES-**

(1) **IN GENERAL-** From amounts appropriated under section 6234 for this subpart for a fiscal year that are not reserved under subsection (c), the Secretary shall award grants (from allotments made under paragraph (2)) for the fiscal year to State educational agencies that have applications submitted under section 6223 approved to enable the State educational agencies to award grants to eligible local educational agencies for local authorized activities described in section 6222(a).

(2) **ALLOTMENT-** From amounts described in paragraph (1) for a fiscal year, the Secretary shall allot to each State educational agency for that fiscal year an amount that bears the same ratio to those amounts as the number of students in average daily attendance served by eligible local educational agencies in the State for that fiscal year bears to the number of all such students served by eligible local educational agencies in all States for that fiscal year.

(3) **SPECIALLY QUALIFIED AGENCIES-**

(A) **ELIGIBILITY AND APPLICATION-** If a State educational agency elects not to participate in the program under this subpart or does not have an application submitted under section 6223 approved, a

specially qualified agency in such State desiring a grant under this subpart may submit an application under such section directly to the Secretary to receive an award under this subpart.

(B) DIRECT AWARDS- The Secretary may award, on a competitive basis or by formula, the amount the State educational agency is eligible to receive under paragraph (2) directly to a specially qualified agency in the State that has submitted an application in accordance with subparagraph (A) and obtained approval of the application.

(C) SPECIALLY QUALIFIED AGENCY DEFINED- In this subpart, the term specially qualified agency' means an eligible local educational agency served by a State educational agency that does not participate in a program under this subpart in a fiscal year, that may apply directly to the Secretary for a grant in such year under this subsection.

(b) LOCAL AWARDS-

(1) ELIGIBILITY- A local educational agency shall be eligible to receive a grant under this subpart if—
(A) 20 percent or more of the children ages 5 through 17 years served by the local educational agency are from families with incomes below the poverty line; and

(B) all of the schools served by the agency are designated with a school locale code of 6, 7, or 8, as determined by the Secretary.

(2) AWARD BASIS- A State educational agency shall award grants to eligible local educational agencies

—
(A) on a competitive basis;

(B) according to a formula based on the number of students in average daily attendance served by the eligible local educational agencies or schools in the State; or

(C) according to an alternative formula, if, prior to awarding the grants, the State educational agency demonstrates, to the satisfaction of the Secretary, that the alternative formula enables the State educational agency to allot the grant funds in a manner that serves equal or greater concentrations of children from families with incomes below the poverty line, relative to the concentrations that would be served if the State educational agency used the formula described in subparagraph (B).

(c) RESERVATIONS- From amounts appropriated under section 6234 for this subpart for a fiscal year, the Secretary shall reserve—

(1) one-half of 1 percent to make awards to elementary schools or secondary schools operated or

supported by the Bureau of Indian Affairs, to carry out the activities authorized under this subpart; and

(2) one-half of 1 percent to make awards to the outlying areas in accordance with their respective needs, to carry out the activities authorized under this subpart.

Title VI Section 6222 USES OF FUNDS.

(a) LOCAL AWARDS- Grant funds awarded to local educational agencies under this subpart shall be used for any of the following:

(1) Teacher recruitment and retention, including the use of signing bonuses and other financial incentives.

(2) Teacher professional development, including programs that train teachers to utilize technology to improve teaching and to train special needs teachers.

(3) Educational technology, including software and hardware, as described in part D of title II.

(4) Parental involvement activities.

(5) Activities authorized under the Safe and Drug-Free Schools program under part A of title IV.

(6) Activities authorized under part A of title I.

(7) Activities authorized under title III.

(b) ADMINISTRATIVE COSTS- A State educational agency receiving a grant under this subpart may not use more than 5 percent of the amount of the grant for State administrative costs and to provide technical assistance to eligible local educational agencies.

Title VI Section 6223 APPLICATIONS.

(a) IN GENERAL- Each State educational agency or specially qualified agency desiring to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) CONTENTS- At a minimum, each application submitted under subsection (a) shall include information on specific measurable goals and objectives to be achieved through the activities carried out through the grant, which may include specific educational goals and objectives relating to—

(1) increased student academic achievement;

- (2) decreased student dropout rates; or
- (3) such other factors as the State educational agency or specially qualified agency may choose to measure.

Title VI Section 6224 ACCOUNTABILITY.

(a) STATE REPORT- Each State educational agency that receives a grant under this subpart shall prepare and submit an annual report to the Secretary. The report shall describe —

- (1) the method the State educational agency used to award grants to eligible local educational agencies, and to provide assistance to schools, under this subpart;
- (2) how local educational agencies and schools used funds provided under this subpart; and
- (3) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 6223.

(b) SPECIALLY QUALIFIED AGENCY REPORT- Each specially qualified agency that receives a grant under this subpart shall provide an annual report to the Secretary. Such report shall describe —

- (1) how such agency uses funds provided under this subpart; and
- (2) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 6223.

(c) REPORT TO CONGRESS- The Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a biennial report. The report shall describe —

- (1) the methods the State educational agencies used to award grants to eligible local educational agencies, and to provide assistance to schools, under this subpart;
- (2) how local educational agencies and schools used funds provided under this subpart; and
- (3) the degree to which progress has been made toward meeting the goals and objectives described in the applications submitted under section 6223.

(d) ACADEMIC ACHIEVEMENT ASSESSMENT- Each local educational agency or specially qualified agency that receives a grant under this subpart for a fiscal year shall administer an assessment that is consistent with section 1111(b)(3).

(e) DETERMINATION REGARDING CONTINUING PARTICIPATION- Each State educational agency or specially qualified agency that receives a grant under this subpart shall —

- (1) after the third year that a local educational agency or specially qualified agency in the State receives funds under this subpart, and on the basis of the results of the assessments described in subsection (d) —
 - (A) in the case of a local educational agency, determine whether the local educational agency made adequate yearly progress, as described in section 1111(b)(2); and
 - (B) in the case of a specially qualified agency, submit to the Secretary information that would allow the Secretary to determine whether the specially qualified agency has made adequate yearly progress, as described in section 1111(b)(2);
- (2) permit only those local educational agencies or specially qualified agencies that made adequate yearly progress, as described in section 1111(b)(2), to continue to receive grants under this subpart; and
- (3) permit those local educational agencies or specially qualified agencies that failed to make adequate yearly progress, as described in section 1111(b)(2), to continue to receive such grants only if the State educational agency disbursed such grants to the local educational agencies or specially qualified agencies to carry out the requirements of section 1116.

Policy Implications:

Under the Rural and Low-Income Schools Program, states receive funding to the state level based on the number of eligible districts within their state. However, before they can receive the dollars, they must determine how the dollars will flow from the state to the local level. This is within the State's consolidated application. There are three options:

The first, and most popular for the 2002 – 2003 school year, is to distribute the dollars via formula based on the number of students within each of the eligible districts. The second option is to have a competitive grant process at the state level.

The third option allows the state to distribute the dollars on a more highly targeted formula, such as the rate of poverty, but that must be pre-approved by the US Department of Education.

Policy might also be formulized as to the information needed from the participating LEAs in order for the State to meet its reporting requirements under this section.

States must also submit a listing of all eligible school districts for both programs to the US Department of Education by March 1st based on the most recent average daily attendance counts.

District Implementation:

Clearly, REAP is a significant development for rural districts. For the first time, there is a direct federal funding stream for rural district to help them operate within the unique situations in which they exist. Ideally, this section will provide the necessary funds for rural districts to overcome the obstacles they face in implementing NCLB, such as geographic isolation. For example, these extra dollars can be used to hire additional staff or raise salaries in order to keep teachers in rural districts and help them meet the new requirements.

To best look at implementing these two different subparts, they should be considered individually.

Small and Rural Schools Achievement Program:

This program aids those districts that have traditionally received a smaller percentage of federal dollars because they lack the staff to apply for competitive grants. In addition, these districts have been hampered by the small amounts of money they receive under each of the formula programs and their traditional restricted use. This program allows them to overcome both problems, by presenting them a supplemental grant and providing 100 percent flexibility among their federal formula dollars.

In this first year, there were over 4,700 eligible districts. Of those 4,700 districts, 4,028 applied and received funding under this program. The application process is an online application through the Department of Education e-grants website. The one page one line application requires several items from the school district:

- School district contact information
- A National Center for Education Statistics (NCES) ID #
- A DUNS # (free from Dunn & Bradstreet website: www.dnb.com)
- A Federal Tax Identification #

Once those items are entered online and submitted, the application must be printed and signed and faxed to the US Department of Education. The overall process should take under 30 minutes.

Once the dollars are received by the district, through their individual Department of Education account, districts should use their dollars and increased flexibility to provide substantial change within their district. From a small district in NH that plans to set up a data analysis system to comply with Title I, to the district in NE who plans to use the dollars to upgrade all of the computers and technology in the district, the uses of these dollars are widespread.

You can spend Small and Rural Schools Achievement Program dollars in the following NCLB programs:

- Title I programming
- Teacher & Principal Professional Development and Hiring (Title II, Part A)
- Education Technology (Title II, Part D)
- Bi-lingual and Emergency Immigrant Programs (Title III)
- Safe and Drug Free Schools (Title IV, Part A)
- 21st Century After-school or Extended Day Programming (Title IV, Part B)
- Innovative Block Grant Program (Title V)

In order for the local districts to keep these dollars, they must meet the AYP requirements of Title I after three years. However, in the meantime, the U.S. Department of Education will be monitoring the uses of the money through a simple online form. In this form, three questions will be asked:

- What dollars did you consolidate?
- How did you use the consolidated dollars?
- How did you use the supplemental dollars?

While they will not be asking for in depth budgeting analysis for the money, local districts should be able to break down uses for all the money. General guidance for use of the money should be taken from uses allowed under NCLB.

A District's Perspective:

For Biggers-Reyno School District in Biggers, Arkansas, Superintendent J.M. Edington already has big plans for his dollars in his district of 211 students. From extending a current reading program to serve more students to advancing technology within the district, Biggers-Reyno has a variety of needs that can be filled by these additional resources. Because the program was not fully funded this year, there was an 18 percent reduction for most districts. Therefore, Biggers-Reyno received \$18,506 of the \$22,490 they were expecting. Even though there was less money than Edington had hoped for, it was still more than double the federal resources that they had received the year before. "REAP is allowing districts with small numbers of students, the flexibility to address the needs of their particular school and has supplied the resources to do so. This is some of the greatest help we have ever received from the federal government and needed now more than ever, due to the requirements of the No Child Left Behind Act," says Edington.

Rural and Low Income Schools Program:

This program allows for a supplemental grant to flow to high poverty, rural school districts recognizing the unique challenges they might face and the extra resources needed to overcome those challenges. Districts eligible under this program are subject to the parameters that are set up by their state education agencies for distribution of the dollars. However, once the money is received, districts should begin to use the new resources to increase student achievement within their district.

Dollars under the Rural and Low Income Schools Program may be spent in:

- Teacher recruitment/ retention
- Teacher professional development
- Educational technology (software too!)
- Parental involvement activities
- Safe and Drug Free Schools (Title IV, Part A)
- Title I, Part A
- Bilingual and Emergency Immigrant (Title III)

Depending on the state, there may or may not be an application for the dollars. Either way, each district should have a plan as to how they will utilize the dollars for the benefit of their district. It will also be important for participating districts to stay in contact with their state departments so they can meet any deadlines for information and or progress that the state might need for their report to the US Department of Education.

A District's Perspective:

The Rural and Low Income Schools Program worked well in Oklahoma where they received well over \$2 million. In the district of Byng Public Schools in Ada, OK, Superintendent Steve Crawford had been monitoring the distribution of the dollars carefully. Shortly after being notified that the state had received their share of the money, Byng received a grant for \$33,227. According to Crawford, "this was more than we could have ever expected. We will be sure to do some great things with these new resources." Crawford plans on using these dollars to help supplement teacher salaries that his budget can no longer fully fund and providing additional professional development opportunities for staff. In addition, Byng Public Schools will see an upgrade in the condition of its technology resources. New computers and upgraded printers will aid in integrating technology into the classroom

XIII. Options under Preparing/Training Teachers

Title II Section 2113

(c) STATE ACTIVITIES- The State educational agency for a State that receives a grant under section 2111 shall use the funds described in subsection (a)(3) to carry out one or more of the following activities, which may be carried out through a grant or contract with a for-profit or nonprofit entity:

(1) Reforming teacher and principal certification (including re-certification) or licensing requirements to ensure that —

(A)(i) teachers have the necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach; and

(ii) principals have the instructional leadership skills to help teachers teach and students learn;

(B) teacher certification (including re-certification) or licensing requirements are aligned with challenging State academic content standards; and

(C) teachers have the subject matter knowledge and teaching skills, including technology literacy, and principals have the instructional leadership skills, necessary to help students meet challenging State student academic achievement standards.

(2) Carrying out programs that provide support to teachers or principals, including support for teachers and principals new to their profession, such as programs that —

(A) provide teacher mentoring, team teaching, reduced class schedules, and intensive professional development; and

(B) use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement standards and with the requirements for professional development activities described in section 9101.

(3) Carrying out programs that establish, expand, or improve alternative routes for State certification of teachers and principals, especially in the areas of mathematics and science, for highly qualified individuals with a baccalaureate or master's degree, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective teachers or principals.

(4) Developing and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified teachers, including specialists in core academic subjects, principals, and pupil services personnel, except that funds made available under this paragraph may be used for pupil services personnel only —

(A) if the State educational agency is making progress toward meeting the annual measurable objectives described in section 1119(a)(2); and

(B) in a manner consistent with mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified teachers and principals.

(5) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965.

(6) Providing professional development for teachers and principals and, in cases in which a State educational agency determines support to be appropriate, supporting the participation of pupil services personnel in the same type of professional development activities as are made available to teachers and principals.

(7) Developing systems to measure the effectiveness of specific professional development programs and strategies to document gains in student academic achievement or increases in teacher mastery of the academic subjects the teachers teach.

(8) Fulfilling the State educational agency's responsibilities concerning proper and efficient administration of the programs carried out under this part, including provision of technical assistance to local educational agencies.

(9) Funding projects to promote reciprocity of teacher and principal certification or licensing between or among States, except that no reciprocity agreement developed under this paragraph or developed using funds provided under this part may lead to the weakening of any State teaching certification or licensing requirement.

(10) Developing or assisting local educational agencies in the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily

accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(11) Encouraging and supporting the training of teachers and administrators to effectively integrate technology into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decision-making, school improvement efforts, and accountability.

(12) Developing, or assisting local educational agencies in developing, merit-based performance systems, and strategies that provide differential and bonus pay for teachers in high-need academic subjects such as reading, mathematics, and science and teachers in high-poverty schools and districts.

(13) Providing assistance to local educational agencies for the development and implementation of professional development programs for principals that enable the principals to be effective school leaders and prepare all students to meet challenging State academic content and student academic achievement standards, and the development and support of school leadership academies to help exceptionally talented aspiring or current principals and superintendents become outstanding managers and educational leaders.

(14) Developing, or assisting local educational agencies in developing, teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

(15) Providing assistance to teachers to enable them to meet certification, licensing, or other requirements needed to become highly qualified by the end of the fourth year for which the State receives funds under this part (as amended by the No Child Left Behind Act of 2001).

(16) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve student academic achievement.

(17) Funding projects and carrying out programs to encourage men to become elementary school teachers.

(18) Establishing and operating a center that —

(A) serves as a statewide clearinghouse for the recruitment and placement of kindergarten, elementary school, and secondary school teachers; and

(B) establishes and carries out programs to improve teacher recruitment and retention within the State.

Title II Section 2123 LOCAL USE OF FUNDS.

(a) **IN GENERAL**— A local educational agency that receives a subgrant under section 2121 shall use the funds made available through the subgrant to carry out one or more of the following activities, including carrying out the activities through a grant or contract with a for-profit or nonprofit entity:

(1) Developing and implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers, including specialists in core academic subjects, principals, and pupil services personnel, except that funds made available under this paragraph may be used for pupil services personnel only —

(A) if the local educational agency is making progress toward meeting the annual measurable objectives described in section 1119(a)(2); and

(B) in a manner consistent with mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers and principals.

(2) Developing and implementing initiatives to assist in recruiting highly qualified teachers (particularly initiatives that have proven effective in retaining highly qualified teachers), and hiring highly qualified teachers, who will be assigned teaching positions within their fields, including —

(A) providing scholarships, signing bonuses, or other financial incentives, such as differential pay, for teachers to teach —

(i) in academic subjects in which there exists a shortage of highly qualified teachers within a school or within the local educational agency; and

(ii) in schools in which there exists a shortage of highly qualified teachers;

(B) recruiting and hiring highly qualified teachers to reduce class size, particularly in the early grades; and

(C) establishing programs that —

(i) train and hire regular and special education teachers (which may include hiring special education teachers to team-teach in classrooms that contain both children with disabilities and non-disabled children);

(ii) train and hire highly qualified teachers of special needs children, as well as teaching specialists in core academic subjects who will provide increased individualized instruction to students;

(iii) recruit qualified professionals from other fields, including highly qualified paraprofessionals, and provide such professionals with alternative routes to teacher certification, including developing and implementing hiring policies that ensure comprehensive recruitment efforts as a way to expand the applicant pool, such as through identifying teachers certified through alternative routes, and using a system of intensive screening designed to hire the most qualified applicants; and
(iv) provide increased opportunities for minorities, individuals with disabilities, and other individuals underrepresented in the teaching profession.

(3) Providing professional development activities--

(A) that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, concerning--

(i) one or more of the core academic subjects that the teachers teach; and

(ii) effective instructional strategies, methods, and skills, and use of challenging State academic content standards and student academic achievement standards, and State assessments, to improve teaching practices and student academic achievement; and

(B) that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, concerning effective instructional practices and that--

(i) involve collaborative groups of teachers and administrators;

(ii) provide training in how to teach and address the needs of students with different learning styles, particularly students with disabilities, students with special learning needs (including students who are gifted and talented), and students with limited English proficiency;

(iii) provide training in methods of--

(I) improving student behavior in the classroom; and

(II) identifying early and appropriate interventions to help students described in clause (ii) learn;

(iv) provide training to enable teachers and principals to involve parents in their child's education, especially parents of limited English proficient and immigrant children; and

(v) provide training on how to understand and use data and assessments to improve classroom practice and student learning.

(4) Developing and implementing initiatives to promote retention of highly qualified teachers and principals, particularly within elementary schools and secondary schools with a high percentage of low-achieving students, including programs that provide--

(A) teacher mentoring from exemplary teachers, principals, or superintendents;

(B) induction and support for teachers and principals during their first 3 years of employment as teachers or principals, respectively;

(C) incentives, including financial incentives, to retain teachers who have a record of success in helping low-achieving students improve their academic achievement; or

(D) incentives, including financial incentives, to principals who have a record of improving the academic achievement of all students, but particularly students from economically disadvantaged families, students from racial and ethnic minority groups, and students with disabilities.

(5) Carrying out programs and activities that are designed to improve the quality of the teacher force, such as--

(A) innovative professional development programs (which may be provided through partnerships including institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, are consistent with the requirements of section 9101, and are coordinated with activities carried out under part D;

(B) development and use of proven, cost-effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning;

(C) tenure reform;

(D) merit pay programs; and

(E) testing of elementary school and secondary school teachers in the academic subjects that the teachers teach.

(6) Carrying out professional development activities designed to improve the quality of principals and superintendents, including the development and support of academies to help talented aspiring or current principals and superintendents become outstanding managers and educational leaders.

(7) Hiring highly qualified teachers, including teachers who become highly qualified through State and local alternative routes to certification, and special education teachers, in order to reduce class size, particularly in the early grades.

(8) Carrying out teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

(10) Carrying out programs and activities related to exemplary teachers.

(b) SUPPLEMENT, NOT SUPPLANT- *Funds received under this subpart shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this subpart.*

Policy Implications:

The most striking feature of this section of the legislation appears to be the flexibility provisions. Should policy issues become important, language that increases local flexibility would be appropriate under the guidance of the legislation.

District Implementation:

There are a number of important changes in Title II of NCLB. It is clear to see that the law is geared towards maximum flexibility for local districts in the use of their allocations. The most apparent change is the consolidation of Class Size Reduction into the eligible uses under Title II, Part A. Because of this consolidation, most districts will be receiving a larger amount of money under Title II allowing for even greater flexibility in use of the dollars.

Another large change in Title II is its expansion to include leadership training and principals among its applicable uses. This will allow for greater administrative training at the local level that will be critical in meeting the requirements of NCLB.

Mostly, local districts should use the expanded flexibility of Title II to help them meet the "highly qualified" teacher provisions by the 2005 – 2006 school year. Increasing pay or providing signing bonuses are examples of methods for attracting and retaining instructors allowed under Title II, Part A. Using a collaborative approach by pooling Title II dollars among several districts might allow for sharing of critical instructors in shortage areas, such as reading and math specialists.

Title II is now what local districts will make of it. The trick is using the increased flexibility to the greatest advantage.

XIV. Enhancing Education through Technology Act of 2001

Title II Part D:

SEC. 2402. PURPOSES AND GOALS.

(a) PURPOSES- *The purposes of this part are the following:*

- (1) To provide assistance to States and localities for the implementation and support of a comprehensive system that effectively uses technology in elementary schools and secondary schools to improve student academic achievement.*
- (2) To encourage the establishment or expansion of initiatives, including initiatives involving public-private partnerships, designed to increase access to technology, particularly in schools served by high-need local educational agencies.*
- (3) To assist States and localities in the acquisition, development, interconnection, implementation, improvement, and maintenance of an effective educational technology infrastructure in a manner that expands access to technology for students (particularly for disadvantaged students) and teachers.*
- (4) To promote initiatives that provide school teachers, principals, and administrators with the capacity to integrate technology effectively into curricula and instruction that are aligned with challenging State academic content and student academic achievement standards, through such means as high-quality professional development programs.*
- (5) To enhance the ongoing professional development of teachers, principals, and administrators by providing constant access to training and updated research in teaching and learning through electronic means.*
- (6) To support the development and utilization of electronic networks and other innovative methods, such as distance learning, of delivering specialized or rigorous academic courses and curricula for students in areas that would not otherwise have access to such courses and curricula, particularly in geographically isolated regions.*
- (7) To support the rigorous evaluation of programs funded under this part, particularly regarding the impact of such programs on student academic achievement, and ensure that timely information on the results of such evaluations is widely accessible through electronic means.*
- (8) To support local efforts using technology to promote parent and family involvement in education and communication among students, parents, teachers, principals, and administrators.*

(b) GOALS-

- (1) PRIMARY GOAL-* *The primary goal of this part is to improve student academic achievement through the use of technology in elementary schools and secondary schools.*
- (2) ADDITIONAL GOALS-* *The additional goals of this part are the following:*
 - (A) To assist every student in crossing the digital divide by ensuring that every student is technologically literate by the time the student finishes the eighth grade, regardless of the student's race, ethnicity, gender, family income, geographic location, or disability.*
 - (B) To encourage the effective integration of technology resources and systems with teacher training and curriculum development to establish research-based instructional methods that can be widely implemented as best practices by State educational agencies and local educational agencies.*

SEC. 2403. DEFINITIONS.

In this part:

(1) ELIGIBLE LOCAL ENTITY- *The term eligible local entity' means —*

- (A) a high-need local educational agency; or*
- (B) an eligible local partnership.*

(2) ELIGIBLE LOCAL PARTNERSHIP- *The term eligible local partnership' means a partnership that —*

- (A) shall include at least one high-need local educational agency and at least one —*
 - (i) local educational agency that can demonstrate that teachers in schools served by the agency are effectively integrating technology and proven teaching practices into instruction, based on a review of relevant research, and that the integration results in improvement in —*
 - (I) classroom instruction in the core academic subjects; and*
 - (II) the preparation of students to meet challenging State academic content and student academic achievement standards;*

(ii) institution of higher education that is in full compliance with the reporting requirements of section 207(f) of the Higher Education Act of 1965 and that has not been identified by its State as low-performing under section 208 of such Act;

(iii) for-profit business or organization that develops, designs, manufactures, or produces technology products or services, or has substantial expertise in the application of technology in instruction; or

(iv) public or private nonprofit organization with demonstrated experience in the application of educational technology to instruction; and

(B) may include other local educational agencies, educational service agencies, libraries, or other educational entities appropriate to provide local programs.

(3) **HIGH-NEED LOCAL EDUCATIONAL AGENCY-** The term high-need local educational agency' means a local educational agency that —

(A) is among the local educational agencies in a State with the highest numbers or percentages of children from families with incomes below the poverty line; and

(B)(i) operates one or more schools identified under section 1116; or

(ii) has a substantial need for assistance in acquiring and using technology.

SEC. 2404. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL-** There are authorized to be appropriated to carry out subparts 1 and 2, \$1,000,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) **ALLOCATION OF FUNDS BETWEEN STATE AND LOCAL AND NATIONAL INITIATIVES-**

The amount of funds made available under subsection (a) for a fiscal year shall be allocated so that —

(1) not less than 98 percent is made available to carry out subpart 1; and

(2) not more than 2 percent is made available to carry out subpart 2.

(c) **ALLOCATION OF FUNDS FOR STUDY-** Of the total amount of funds allocated under subsection

(b)(2) for fiscal years 2002 through 2007, not more than \$15,000,000 may be used to carry out section 2421(a).

(d) **LIMITATION-** Of the amount of funds made available to a recipient of funds under this part for a fiscal year, not more than 5 percent may be used by the recipient for administrative costs or technical assistance, of which not more than 60 percent may be used by the recipient for administrative costs.

Title II Section 2413-2416

Section 2413 STATE APPLICATIONS.

(a) **IN GENERAL-** To be eligible to receive a grant under this subpart, a State educational agency shall submit to the Secretary, at such time and in such manner as the Secretary may specify, an application containing a new or updated statewide long-range strategic educational technology plan (which shall address the educational technology needs of local educational agencies) and such other information as the Secretary may reasonably require.

(b) **CONTENTS-** Each State application submitted under subsection (a) shall include each of the following:

(1) An outline of the State educational agency's long-term strategies for improving student academic achievement, including technology literacy, through the effective use of technology in classrooms throughout the State, including through improving the capacity of teachers to integrate technology effectively into curricula and instruction.

(2) A description of the State educational agency's goals for using advanced technology to improve student academic achievement, and how those goals are aligned with challenging State academic content and student academic achievement standards.

(3) A description of how the State educational agency will take steps to ensure that all students and teachers in the State, particularly students and teachers in districts served by high-need local educational agencies, have increased access to technology.

(4) A description of the process and accountability measures that the State educational agency will use to evaluate the extent to which activities funded under this subpart are effective in integrating technology into curricula and instruction.

(5) A description of how the State educational agency will encourage the development and utilization of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies, particularly for those areas of the State

that would not otherwise have access to such courses and curricula due to geographical isolation or insufficient resources.

(6) An assurance that financial assistance provided under this subpart will supplement, and not supplant, State and local funds.

(7) A description of how the plan incorporates teacher education, professional development, and curriculum development, and how the State educational agency will work to ensure that teachers and principals in a State receiving funds under this part are technologically literate.

(8) A description of—

(A) how the State educational agency will provide technical assistance to applicants under section 2414, especially to those applicants serving the highest numbers or percentages of children in poverty or with the greatest need for technical assistance; and

(B) the capacity of the State educational agency to provide such assistance.

(9) A description of technology resources and systems that the State will provide for the purpose of establishing best practices that can be widely replicated by State educational agencies and local educational agencies in the State and in other States.

(10) A description of the State's long-term strategies for financing technology to ensure that all students, teachers, and classrooms have access to technology.

(11) A description of the State's strategies for using technology to increase parental involvement.

(12) A description of how the State educational agency will ensure that each subgrant awarded under section 2412(a)(2)(B) is of sufficient size and duration, and that the program funded by the subgrant is of sufficient scope and quality, to carry out the purposes of this part effectively.

(13) A description of how the State educational agency will ensure ongoing integration of technology into school curricula and instructional strategies in all schools in the State, so that technology will be fully integrated into the curricula and instruction of the schools by December 31, 2006.

(14) A description of how the local educational agencies in the State will provide incentives to teachers who are technologically literate and teaching in rural or urban areas, to encourage such teachers to remain in those areas.

(15) A description of how public and private entities will participate in the implementation and support of the plan.

(c) **DEEMED APPROVAL**- An application submitted by a State educational agency pursuant to subsection (a) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this part.

(d) **DISAPPROVAL**- The Secretary shall not finally disapprove the application, except after giving the State educational agency notice and an opportunity for a hearing.

(e) **NOTIFICATION**- If the Secretary finds that the application is not in compliance, in whole or in part, with this part, the Secretary shall—

(1) give the State educational agency notice and an opportunity for a hearing; and

(2) notify the State educational agency of the finding of noncompliance and, in such notification, shall—

(A) cite the specific provisions in the application that are not in compliance; and

(B) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(f) **RESPONSE**- If the State educational agency responds to the Secretary's notification described in subsection (e)(2) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in subsection (e)(2)(B), the Secretary shall approve or disapprove such application prior to the later of—

(1) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

(2) the expiration of the 120-day period described in subsection (c).

(g) **FAILURE TO RESPOND**- If the State educational agency does not respond to the Secretary's notification described in subsection (e)(2) during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

Section 2414 LOCAL APPLICATIONS.

(a) **IN GENERAL**- To be eligible to receive a subgrant from a State educational agency under this subpart, a local educational agency or eligible local entity shall submit to the State educational agency an application containing a new or updated local long-range strategic educational technology plan that is

consistent with the objectives of the statewide educational technology plan described in section 2413(a), and such other information as the State educational agency may reasonably require, at such time and in such manner as the State educational agency may require.

(b) CONTENTS- The application shall include each of the following:

(1) A description of how the applicant will use Federal funds under this subpart to improve the student academic achievement, including technology literacy, of all students attending schools served by the local educational agency and to improve the capacity of all teachers teaching in schools served by the local educational agency to integrate technology effectively into curricula and instruction.

(2) A description of the applicant's specific goals for using advanced technology to improve student academic achievement, aligned with challenging State academic content and student academic achievement standards.

(3) A description of the steps the applicant will take to ensure that all students and teachers in schools served by the local educational agency involved have increased access to educational technology, including how the agency would use funds under this subpart (such as combining the funds with funds from other sources), to help ensure that—

(A) students in high-poverty and high-needs schools, or schools identified under section 1116, have access to technology; and

(B) teachers are prepared to integrate technology effectively into curricula and instruction.

(4) A description of how the applicant will—

(A) identify and promote curricula and teaching strategies that integrate technology effectively into curricula and instruction, based on a review of relevant research, leading to improvements in student academic achievement, as measured by challenging State academic content and student academic achievement standards; and

(B) provide ongoing, sustained professional development for teachers, principals, administrators, and school library media personnel serving the local educational agency, to further the effective use of technology in the classroom or library media center, including, if applicable, a list of the entities that will be partners with the local educational agency involved in providing the ongoing, sustained professional development.

(5) A description of the type and costs of technologies to be acquired under this subpart, including services, software, and digital curricula, and including specific provisions for interoperability among components of such technologies.

(6) A description of how the applicant will coordinate activities carried out with funds provided under this subpart with technology-related activities carried out with funds available from other Federal, State, and local sources.

(7) A description of how the applicant will integrate technology (including software and other electronically delivered learning materials) into curricula and instruction, and a timeline for such integration.

(8) A description of how the applicant will encourage the development and utilization of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies, particularly for those areas that would not otherwise have access to such courses and curricula due to geographical isolation or insufficient resources.

(9) A description of how the applicant will ensure the effective use of technology to promote parental involvement and increase communication with parents, including a description of how parents will be informed of the technology being applied in their child's education so that the parents are able to reinforce at home the instruction their child receives at school.

(10) A description of how programs will be developed, where applicable, in collaboration with adult literacy service providers, to maximize the use of technology.

(11) A description of the process and accountability measures that the applicant will use to evaluate the extent to which activities funded under this subpart are effective in integrating technology into curricula and instruction, increasing the ability of teachers to teach, and enabling students to meet challenging State academic content and student academic achievement standards.

(12) A description of the supporting resources (such as services, software, other electronically delivered learning materials, and print resources) that will be acquired to ensure successful and effective uses of technology.

(c) COMBINED APPLICATIONS- A local educational agency that is an eligible local entity and submits an application to the State educational agency under this section for funds awarded under section

2412(a)(2)(A) may combine the agency's application for funds awarded under that section with an application for funds awarded under section 2412(a)(2)(B).

(d) SPECIAL RULE-

(1) CONSORTIUM APPLICATIONS-

(A) IN GENERAL- For any fiscal year, a local educational agency applying for financial assistance described in section 2412(a)(2)(A) may apply as part of a consortium that includes other local educational agencies, institutions of higher education, educational service agencies, libraries, or other educational entities appropriate to provide local programs.

(B) FISCAL AGENT- If a local educational agency applies for and receives financial assistance described in section 2412(a)(2)(A) as part of a consortium, the local educational agency shall serve as the fiscal agent for the consortium.

(2) STATE EDUCATIONAL AGENCY ASSISTANCE- At the request of a local educational agency, a State educational agency may assist the local educational agency in the formation of a consortium described in paragraph (1) to provide services for the teachers and students served by the local educational agency.

Section 2415 STATE ACTIVITIES.

From funds made available under section 2412(a)(1), a State educational agency shall carry out activities and assist local efforts to carry out the purposes of this part, which may include the following activities:

(1) Developing, or assisting applicants or recipients of funds under this subpart in the development and utilization of, innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies, and providing other technical assistance to such applicants or recipients throughout the State, with priority given to high-need local educational agencies.

(2) Establishing or supporting public-private initiatives (such as interest-free or reduced-cost loans) for the acquisition of educational technology for high-need local educational agencies and students attending schools served by such agencies.

(3) Assisting recipients of funds under this subpart in providing sustained and intensive, high-quality professional development based on a review of relevant research in the integration of advanced technologies, including emerging technologies, into curricula and instruction and in using those technologies to create new learning environments, including training in the use of technology to --

(A) access data and resources to develop curricula and instructional materials;

(B) enable teachers --

(i) to use the Internet and other technology to communicate with parents, other teachers, principals, and administrators; and

(ii) to retrieve Internet-based learning resources; and

(C) lead to improvements in classroom instruction in the core academic subjects, that effectively prepare students to meet challenging State academic content standards and student academic achievement standards.

(4) Assisting recipients of funds under this subpart in providing all students (including students with disabilities and students with limited English proficiency) and teachers with access to educational technology.

(5) Developing performance measurement systems to determine the effectiveness of educational technology programs funded under this subpart, particularly in determining the extent to which activities funded under this subpart are effective in integrating technology into curricula and instruction, increasing the ability of teachers to teach, and enabling students to meet challenging State academic content and student academic achievement standards.

(6) Collaborating with other State educational agencies on distance learning, including making specialized or rigorous academic courses and curricula available to students in areas that would not otherwise have access to such courses and curricula.

Section 2416 LOCAL ACTIVITIES.

(a) PROFESSIONAL DEVELOPMENT-

(1) IN GENERAL- A recipient of funds made available under section 2412(a)(2) shall use not less than 25 percent of such funds to provide ongoing, sustained, and intensive, high-quality professional development. The recipient shall provide professional development in the integration of advanced technologies, including

emerging technologies, into curricula and instruction and in using those technologies to create new learning environments, such as professional development in the use of technology—

(A) to access data and resources to develop curricula and instructional materials;

(B) to enable teachers—

(i) to use the Internet and other technology to communicate with parents, other teachers, principals, and administrators; and

(ii) to retrieve Internet-based learning resources; and

(C) to lead to improvements in classroom instruction in the core academic subjects, that effectively prepare students to meet challenging State academic content standards, including increasing student technology literacy, and student academic achievement standards.

(2) **WAIVERS.** Paragraph (1) shall not apply to a recipient of funds made available under section

2412(a)(2) that demonstrates, to the satisfaction of the State educational agency involved, that the recipient already provides ongoing, sustained, and intensive, high-quality professional development that is based on a review of relevant research, to all teachers in core academic subjects in the integration of advanced technologies, including emerging technologies, into curricula and instruction.

(b) **OTHER ACTIVITIES.** In addition to the activities described in subsection (a), a recipient of funds made available by a State educational agency under section 2412(a)(2) shall use such funds to carry out other activities consistent with this subpart, which may include the following:

(1) Establishing or expanding initiatives, particularly initiatives involving public-private partnerships, designed to increase access to technology for students and teachers, with special emphasis on the access of high-need schools to technology.

(2) Adapting or expanding existing and new applications of technology to enable teachers to increase student academic achievement, including technology literacy —

(A) through the use of teaching practices that are based on a review of relevant research and are designed to prepare students to meet challenging State academic content and student academic achievement standards; and

(B) by the development and utilization of innovative distance learning strategies to deliver specialized or rigorous academic courses and curricula to areas that would not otherwise have access to such courses and curricula.

(3) Acquiring proven and effective courses and curricula that include integrated technology and are designed to help students meet challenging State academic content and student academic achievement standards.

(4) Utilizing technology to develop or expand efforts to connect schools and teachers with parents and students to promote meaningful parental involvement, to foster increased communication about curricula, assignments, and assessments between students, parents, and teachers, and to assist parents to understand the technology being applied in their child's education, so that parents are able to reinforce at home the instruction their child receives at school.

(5) Preparing one or more teachers in elementary schools and secondary schools as technology leaders who are provided with the means to serve as experts and train other teachers in the effective use of technology, and providing bonus payments to the technology leaders.

(6) Acquiring, adapting, expanding, implementing, repairing, and maintaining existing and new applications of technology, to support the school reform effort and to improve student academic achievement, including technology literacy.

(7) Acquiring connectivity linkages, resources, and services (including the acquisition of hardware and software and other electronically delivered learning materials) for use by teachers, students, academic counselors, and school library media personnel in the classroom, in academic and college counseling centers, or in school library media centers, in order to improve student academic achievement.

(8) Using technology to collect, manage, and analyze data to inform and enhance teaching and school improvement efforts.

(9) Implementing performance measurement systems to determine the effectiveness of education technology programs funded under this subpart, particularly in determining the extent to which activities funded under this subpart are effective in integrating technology into curricula and instruction, increasing the ability of teachers to teach, and enabling students to meet challenging State academic content and student academic achievement standards.

(10) Developing, enhancing, or implementing information technology courses.

Policy Implications:

All technology efforts must, in their final analysis, demonstrate the instructional intent of the media. For these purposes, policy implications must directly attest that funds must be indexed to student achievement.

Long-range technology plans are required for both the State Education Agency and the Local Education Agency, with compliance points listed in the Statute. While clearly an SEA and LEA activity, consideration needs to be given to State Board policy implications, particularly as they relate to small schools and those with higher manifest needs. Equity in technology access should be a policy goal.

Under this part, dollars flow from the US Department of Education to the states. Once at the state level, funding is distributed 50% by formula and 50% by competitive grant. Within the competitive grant, equity in access to funding can only be granted by policy stipulating rural representation among applicants and recipients.

District Implementation:

The consolidation and change in the funding formula under education technology programs carries a huge benefit for rural districts. In the past, all of the education technology programs were under competitive grants. Therefore, many small rural districts never received money for educational technology because they did not have the capacity to apply for competitive grants. However, with the new change in formula to flow through the states 50 percent formula grant, 50 percent competitive grant, most rural districts will be receiving education technology dollars for the first time.

Uses for the money are generally open, but include hardware and software improvements. There is one requirement that 25 percent of the local allocation be spent on professional development for teachers on integrating technology into the classroom.

These dollars are important to rural districts because of the need for a large amount of capital at one time, in order to upgrade technology. Because of the difficulty for rural districts to assemble required money at one time, technology upgrades often fall behind. Hopefully, the new allocation of these dollars will allow rural districts to increase their technology capabilities and ensure that their students are not caught in the technology divide.

XV. Transferability

SEC. 6121. SHORT TITLE.

This subpart may be cited as the 'State and Local Transferability Act'.

SEC. 6122. PURPOSE.

The purpose of this subpart is to allow States and local educational agencies the flexibility —

- (1) to target Federal funds to Federal programs that most effectively address the unique needs of States and localities; and*
- (2) to transfer Federal funds allocated to other activities to allocations for certain activities authorized under title I.*

SEC. 6123. TRANSFERABILITY OF FUNDS.

(a) TRANSFERS BY STATES-

(1) IN GENERAL- In accordance with this subpart, a State may transfer not more than 50 percent of the nonadministrative State funds (including funds transferred under paragraph (2)) allotted to the State for use for State-level activities under the following provisions for a fiscal year to one or more of the State's allotments for such fiscal year under any other of such provisions:

(A) Section 2113(a)(3).

(B) Section 2412(a)(1).

(C) Subsections (a)(1) (with the agreement of the Governor) and (c)(1) of section 4112 and section 4202(c)(3).

(D) Section 5112(b).

(2) ADDITIONAL FUNDS FOR TITLE I- In accordance with this subpart and subject to the 50 percent limitation described in paragraph (1), a State may transfer any funds allotted to the State under a provision listed in paragraph (1) to its allotment under title I.

(b) TRANSFERS BY LOCAL EDUCATIONAL AGENCIES-

(1) AUTHORITY TO TRANSFER FUNDS-

(A) IN GENERAL- In accordance with this subpart, a local educational agency (except a local educational agency identified for improvement under section 1116(c) or subject to corrective action under section 1116(c)(9)) may transfer not more than 50 percent of the funds allocated to it (including funds transferred under subparagraph (C)) under each of the provisions listed in paragraph (2) for a fiscal year to one or more of its allocations for such fiscal year under any other provision listed in paragraph (2).

(B) AGENCIES IDENTIFIED FOR IMPROVEMENT- In accordance with this subpart, a local educational agency identified for improvement under section 1116(c) may transfer not more than 30 percent of the funds allocated to it (including funds transferred under subparagraph (C)) under each of the provisions listed in paragraph (2) for a fiscal year —

(i) to its allocation for school improvement for such fiscal year under section 1003; or

(ii) to any other allocation for such fiscal year if such transferred funds are used only for local educational agency improvement activities consistent with section 1116(c).

(C) ADDITIONAL FUNDS FOR TITLE I- In accordance with this subpart and subject to the percentage limitation described in subparagraph (A) or (B), as applicable, a local educational agency may transfer funds allocated to such agency under any of the provisions listed in paragraph (2) for a fiscal year to its allocation for part A of title I for that fiscal year.

(2) APPLICABLE PROVISIONS- A local educational agency may transfer funds under subparagraph (A), (B), or (C) of paragraph (1) from allocations made under each of the following provisions:

(A) Section 2121.

(B) Section 2412(a)(2)(A).

(C) Section 4112(b)(1).

(D) Section 5112(a).

(c) NO TRANSFER OF TITLE I FUNDS- A State or a local educational agency may not transfer under this subpart to any other program any funds allotted or allocated to it for part A of title I.

(d) MODIFICATION OF PLANS AND APPLICATIONS; NOTIFICATION-

- (1) STATE TRANSFERS- Each State that makes a transfer of funds under this section shall —*
(A) modify, to account for such transfer, each State plan, or application submitted by the State, to which such funds relate;
(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the Secretary; and
(C) not later than 30 days before the effective date of such transfer, notify the Secretary of such transfer.
(2) LOCAL TRANSFERS- Each local educational agency that makes a transfer of funds under this section shall —
(A) modify, to account for such transfer, each local plan, or application submitted by the agency, to which such funds relate;
(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the State; and
(C) not later than 30 days before the effective date of such transfer, notify the State of such transfer.
(e) APPLICABLE RULES-
(1) IN GENERAL- Except as otherwise provided in this subpart, funds transferred under this section are subject to each of the rules and requirements applicable to the funds under the provision to which the transferred funds are transferred.
(2) CONSULTATION- Each State educational agency or local educational agency that transfers funds under this section shall conduct consultations in accordance with section 9501, if such transfer transfers funds from a program that provides for the participation of students, teachers, or other educational personnel, from private schools

Policy Implications:

Within the area of transferability, there appears to be no direct policy implications. State Education Agencies will have the ability to transfer up to 50 percent of their administrative dollars in such areas as Title II Teacher Quality and Title IV Safe and Drug Free Schools and use them in Title I administrative funding or an assortment of different funding areas. The important item of note is that dollars MAY NOT be transferred out of Title I. States may only ADD additional administrative dollars into Title I.

District Implementation:

The flexibility provided in transferability is designed to allow districts the most effect use of their formula dollars, based on the circumstances they are facing at the local level. This includes focused decisions on teachers and targeting achievement needs. Districts are eligible to transfer up to 50 percent of their formula dollars into another of the qualifying formulas. Similar to the state provisions, no dollars may be transferred out of Title I; dollars may only be added to Title I. This will allow districts the option of meeting the needs of certain programs through creative thinking and consolidation of dollars.

When implementing transferability at the local level, tracking formula dollars is critical. Districts should know what dollars were transferred or consolidated and for what purpose. This will help with state and federal reporting requirements.

XVI. Key Resources

Kane T. And Staiger, D. (2001) Volatility in School Test Scores: Implications for Test-based Accountability Systems. The Brookings Institution, August.

American Association of School Administrators
www.aasa.org

National Association of State Boards of Education
www.nasbe.org

National Education Association
<http://www.nea.org/schools/rural/>

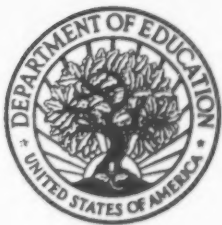
PL 107-110. No Child Left Behind Act of 2001. January 8, 2002

US Department of Education – No Child Left Behind Site
www.nclb.gov

US Department of Education – General Site
www.ed.gov

Resources and Best Practices for Implementing No Child Left Behind, Best of the Web
www.aasa.org/issues_and_insights/ESEA/ESEA_best_of_web_index.htm

AASA's Resource Page to Data Driven Decision Making
<http://www.aasa.org/cas/index.htm>



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